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Chapter OP 5
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Processing Entrepreneurs and Self–Employed Immigrants

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Medical Procedures

Chapter OP 15
Travel Documents and Passports

Chapter OP 17
Evaluating Inadmissibility

Chapter OP 18
Criminal Rehabilitation

Chapter OP 19
Minister's Permits

TO HOLDERS OF THE IMMIGRATION MANUAL

In May 1995, we advised all holders of the Immigration Manual that new components would eventually replace the IS and the [illegible] (refer to OMs IA 93–05 and IA 95–05MOD1). We are pleased to finally provide you with the paper version of the OP component.

However, the OP manual is not complete. These 12 chapters indicated below with an asterisk (see also transmittal sheet) are the first of a series of 20 chapters listed hereunder.

* OP 1, General Procedural Guidelines
* OP 2, Processing Members of the Family Class
  OP 3, Spare
  OP 4, Processing Refugees
  OP 5, Processing Independents
* OP 6, Processing Entrepreneurs and Self–employed Immigrants
  OP 7, Processing Investors
* OP 8, Processing Permanent Residents
* OP 9, Processing Visitors
  OP 10, Processing Students
  OP 11, Processing Temporary Workers
* OP 12, Processing Entry of Business Persons – North American Free Trade Agreement (NAFTA)
* OP 13, Processing Live–in Caregivers
* OP 14, Medical Procedures
* OP 15, Travel Documents and Passports
  OP 16, Immigrant Loans
* OP 17, Evaluating Inadmissibility
* OP 18, Criminal Rehabilitation
* OP 19, Minister's Permits
  OP 20, Appeal and Litigation Procedures

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Until all chapters are inserted into the OP manual, **please retain the following IS chapters:**

- IS 3 Refugees and Humanitarian Classes (Abroad) – to be replaced by OP 4;
- IS 4 Independent Immigrants – to be replaced by OP 5;
- IS 5 Business Immigration Program – guidelines on Investors to be replaced by OP 7;
- IS 7 Canada/Quebec Agreement on Immigration – guidelines on Independents and Investors to be replaced by OP 5 and OP 7;
- IS 14 Students – to be replaced by OP 10;
- IS 15 Temporary Foreign Workers – to be replaced by OP 11;
- IS 25 Transportation Loans – to be replaced by OP 16;

All other IS chapters can be discarded. Although Chapter IS 6, Countries Where Special Procedures Apply, is cancelled, special programs for El Salvador, Guatemala, Iran, Lebanon and Sri Lanka remain in effect (see IS 6.20). Information on the special programs will be reissued in an OM entitled "Special Programs for El Salvador, Guatemala, Iran, Lebanon and Sri Lanka."

IMMIGRATION

Canada

Chapter OP 1
General Procedural Guidelines



Citizenship and Immigration

Canada

Chapter OP 1

General Procedural Guidelines

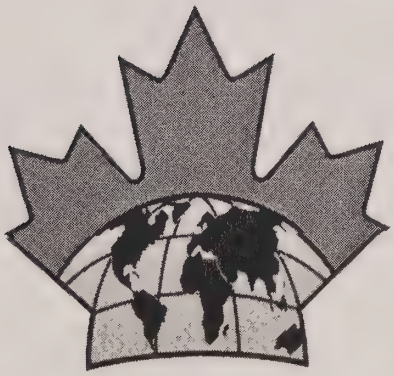


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1 INTRODUCTION

1.1 What is this chapter about?

This chapter provides basic information which applies to activities described in other chapters.

Included in the basic information are general processing guidelines. Following them will help you meet the objectives of immigration policy, as well as the mandate, principles and vision of the International Region.

1.2 Objectives of immigration policy

A3 outlines the objectives of immigration policy.

1.3 Mandate, principles and vision of the International Region

- Mandate - The International Region delivers immigration programs abroad by:
  - selecting immigrants and refugees in accordance with the Government's plans and policies;
  - facilitating the admission to Canada of genuine visitors for tourism, studies and temporary employment; and
  - directing overseas immigration control and enforcement activities;
  - and contributes to the development of Canada's migration, refugee and social policies by reporting and analysing international trends and developments in these fields;
  - advising on the foreign policy implications of domestic policies and on the impact of international migration trends in the domestic arena; and
  - maintaining liaison with foreign Governments, international agencies and non-governmental organizations.
- Principles - We achieve excellence in fulfilling our mandate and realizing our vision through our shared commitment to:
  - Professionalism
  - Client service
  - Integrity
  - Accountability
  - Teamwork
  - Fairness and compassion
- Vision - We contribute to Canada's cultural diversity and to its economic prosperity and growth through our innovative, cost-effective and responsible management of Canadian immigration programs abroad.

  We strive to achieve excellence in providing services which meet the diverse and changing needs of our clients, our partner agencies and the Canadian public.

  We are the principal representatives abroad of Canadian interests in the field of international migration, refugee and social policy issues, and are active advocates of Canadian values and practices in the delivery of our programs.

2 IMMIGRANTS AND VISITORS

2.1 Who is an immigrant?

Immigrant is defined in A2(1). An immigrant is a person who seeks landing. Landing is lawful permission to establish residence in Canada.

A8(2) creates the general presumption that everyone seeking to come into Canada is an immigrant until an immigration officer or adjudicator is satisfied to the contrary.

2.2 What are the categories of immigrants?

The Immigration Act and Regulations distinguish between three broad categories of immigrants. They are family class, convention refugees and designated classes, and independent immigrants.

The Act or the Regulations define members of the family class, convention refugees and members of designated classes.

The Regulations also define assisted relatives, entrepreneurs, investors and self-employed persons. They, and applicants assessed against the selection criteria set out in R8(1)(a), fall into the independent category.

2.3 What are the processing priorities?

The Immigration Regulations do not establish processing priorities.

2.4 Who is a visitor?

Visitor is defined in A2(1). A visitor is a person lawfully in Canada or seeking to come into Canada, for a temporary purpose. Persons who are Canadian citizens, permanent residents, Minister's permit holders or immigrants are not visitors.

2.5 Who must apply for a visa?

Except in prescribed cases, A9(1) requires every immigrant and every visitor to apply for and obtain a visa before they appear at a port of entry.

A9(1.1) allows applicants for visas to apply for themselves and their accompanying dependants.

3 APPLICATIONS

3.1 Where must an application be submitted?

A10.1 lets the Minister specify where applications for visas, authorizations and other documents may be made and assessed. The Minister has not used this authority.

Applicants may apply to any of the International Region's points of service. They do not need to reside or have an address in the area served by the office where they apply.

3.2 What are the guidelines for dealing with non-resident applications?

- Anyone can apply anywhere.

  Missions must accept applications from outside their territory, including applications sent from Canada. Correspond with applicants at the mailing address they give on their IMM 0008. If postage rates for that address are higher than for addresses within missions' territories, applicants should bear the extra cost.

- Each application must be considered on its merits.

  Missions must assign the same processing priority to resident and non-resident applications.

- Missions should advise non-resident applicants, where appropriate, that processing may involve more steps and take longer.

  Non-resident applicants and their representatives may have more reasonable expectations if they understand processing may be more complicated. They can also benefit from knowing it may take longer. Communicate this to them at the outset of processing. Inform them as well if they must pay additional costs of correspondence.

- Missions should use prudent risk management techniques to assess properly a non-resident application.

  If you lack expertise on a question or issue that is material to your decision, seek guidance from the mission responsible for where the applicant resides.

- Missions must request records checks for non-resident applicants and indicate the results in Caips/Stairs notes. In situations where the responsibility for case processing has moved, for example, processing for Albanian applicants transferred from Belgrade to Paris or Taiwanese applicants from Hong Kong to Singapore, ensure that both relevant missions are queried.

  Use the CAIPS universal index search to do out-of-territory records checks directly from your office. If this search function is not available, ask the mission(s) responsible for where the applicant resides, or has resided, to check its index.

  Respond to record check requests within 5 working days. Responses should indicate either "no record" or the local file number. Responses with file numbers should include a brief resume of the information from the file. If a longer response is appropriate, acknowledge receipt of the request within 5 working days with an estimate of when the final response will be ready.

- Missions should fully process non-resident applications.

  As a general rule, you should handle all processing of non-resident applicants and their dependants. Keep requests for processing assistance to the mission responsible for the country of normal residence to a minimum.

3.2.1 Applications from illegal residents

Missions cannot refuse to process applications from applicants without lawful permission to be in the country where they reside, including Canada.

If applicants without lawful permission to be in Canada or another country must attend an interview at a mission in a third country, that mission will not help applicants obtain admission to the third country. Nor will they guarantee to assist them to return to their country of illegal residence after the interview.

Missions cannot insist on proof of departure from Canada before proceeding with any step in processing applications from illegal residents.

3.3 When is an application received?

When a visa office has physical possession of either an application for temporary entry (IMM 1294, IMM 1295, IMM 5257) or an application for permanent residence in Canada (IMM 0008) and, if applicable, an undertaking (IMM 1344A) as well as the correct and complete fees (cost recovery processing fees) it has received an application.

An application receipt date may be different from a lock-in date (see below).

Where possible, visa offices should screen application forms for proper completion before receiving them. An application form is properly completed when it is signed and provides enough information to begin processing. What is enough information will vary depending on the type of application.

3.3.1 Inactive files

If applicants fail to pursue their applications for at least three months without good reason their files are inactive. You can finalize inactive cases in two steps.

- First step

Inform applicants you have not received information, documentation, or results of a medical examination. Specify exactly what you requested and the date of the request. Give them a deadline (not more than six months) to respond to your notice. Make it clear that if they do not respond, you will refuse their application. Emphasize as well that if they still wish to immigrate after you refuse their application, they must make a new application and pay another fee. You assess new applications under the Act and Regulations in force when they are made.

> ***Note:*** *You refuse the application, rather than withdraw or close it. Cite A19(2)(d) with A9(3) - the duty to answer questions and to provide documentation required by the visa officer. You close a file only if applicants do not submit an* IMM 0008.

- Second step

Send a refusal letter. Provide the reason for the refusal and outline the consequences of refusal as described above. In the case of a relative, notify the sponsor of the refusal and his/her right to appeal. (See OP 2)

3.4 What is the lock-in date?

The lock-in date is a reference point you use to freeze certain factors for the purpose of processing applications. Neither the Act or Regulations define it. It does not overcome any requirements of the Act and Regulations applicants must satisfy when an immigration officer admits them.

Regulations in effect on the lock-in date usually apply to applications submitted that day. Changes in regulations after the lock-in date do not usually apply to applications submitted on or before the lock-in date.

> ***Note:*** *The Act allows the Governor in Council to apply changes in regulations to applications already submitted. When the Governor in Council does this, it states which applications are affected by the changes.*

You also use occupational demand points on the lock-in date when assigning selection points. You do not deduct decreases in points after the lock-in date from applicants' totals on that date. You can add points in non-finalized cases, if there has been an increase after the lock-in date.

The lock-in date may also be a reference point for skilled workers. If their occupation drops off the skilled worker list after the lock-in date, you can still assess them as skilled workers.

When age is a factor that makes applicants admissible, use their age on the lock-in date. As long as they are the right age on the lock-in date, they can surpass it before admission.

3.4.1 How to determine the lock-in date

For lock-in to occur, correct and complete cost recovery (processing) fees must be submitted with the IMM 1344A, the IMM 0008, IMM 5001, IMM 5002, or the IMM 5202.

- The lock-in date for family class principal applicants and accompanying dependants is the earlier of the day the visa office receives an Application for Permanent Residence in Canada (IMM 0008), or the day the CPCM receives an Application to Sponsor a Member of the Family Class and Undertaking IMM 1344A.
- The lock-in date for all other categories of applicants is the date of receipt of the IMM 0008, IMM 5001(humanitarian and compassionate applications in Canada), IMM 5002 (LCP and PDRCC applicants in Canada), or the IMM 5202 (convention refugees in Canada). If principal applicants and accompanying dependants submit a combination of these documents, the earliest receipt date is used to determine the lock-in date, e.g. an applicant in Canada includes accompanying dependants abroad on an IMM 5002 or IMM 5202 submitted to CPC-Vegreville and the accompanying dependants subsequently submit an IMM 0008 to a visa office.

  Note: *For applicants destined to Quebec, the application received date is the earliest of the dates an application is received either by the Service d'immigration du Québec or the visa office.*

- Sponsors submit fees to the CPC with the IMM 1344A for family class applicants (unless the applicants have already paid the fees themselves). Other applicants submit fees with their IMM 0008s, IMM 5001s, IMM 5002s, or the IMM 5202s.

  Note: *Sponsors and principal applicants are required to list non-accompanying dependants on the* IMM 1344A, *the* IMM 0008, *IMM 5001,* IMM 5002, *or the* IMM 5202. *They do not pay fees for non-accompanying dependants. The age of non-accompanying dependants is not locked-in on the date of receipt of the* IMM 1344A, *the* IMM 0008, IMM 5001, IMM 5002, *or the* IMM 5202. *If sponsors or principal applicants inform the CPC, CICs or the visa office a non-accompanying dependant will immigrate, they must pay the correct additional cost recovery fee for this person. The age of the new accompanying dependant is locked-in when the department receives the correct additional fee.*

3.5 Language of application forms and form letters

Only application forms in English and French are official application forms. Forms printed in other languages are unofficial. They can only serve as models to help applicants complete the official form in English or French.

Refusal letters for all types of applications must be in English or French. Unofficial translations of refusal letters may accompany the official language letter. Such translations must state clearly that they cannot be used for any official or legal purpose.

Other form letters may be in languages other than English or French.

4 PRINCIPAL APPLICANTS AND DEPENDANTS

4.1 Who can be the principal applicant?

Married applicants may elect to make either spouse principal applicant. If the principal applicant does not meet the selection criteria, the accompanying spouse might. You can assess him or her as well without collecting a second processing fee. Get permission from the principal applicant and spouse to change the assessment record. If they agree, print a copy of the points assessment for the original principal applicant before substituting the spouse's information.

In CAIPS files, switching before entering a paper screening decision simply involves returning directly to file creation. If the system already shows a paper screening decision, the steps are more complicated. The selection decision must be "withdrawn." After re-opening the case, change the principal applicant at file creation and proceed.

Re-opening the application after withdrawing it to change principal applicants does not require collection of new fees.

4.2 Who can be a dependant?

The definition of dependant in R2(1) has three parts. Part (c) of the definition applies for all but two purposes. It includes spouses of principal applicants, dependent sons and daughters of principal applicants or their spouses, and dependent children of dependent sons and daughters of principal applicants or their spouses. Parts (a) and (b) of the definition apply in connection with R45 and R6(3).

4.2.1 Who can be a spouse?

R2(1) defines spouse and marriage. Spouses are persons of opposite sex joined in marriage. Marriage is legal matrimony in the country where the spouses got married. The definition specifically excludes matrimony in which one of the parties became at any given time the spouse of more than one living person.

4.2.2 What about common-law spouses and same-sex partners?

Common-law spouses and same-sex partners do not fall under the definition of spouse. They must meet the requirements for admission as independent immigrants whether they are applying to join a spouse/partner in Canada or accompanying a principal applicant.

They may qualify for selection by earning enough points for assessment factors in Schedule 1. If not, you may recommend selection on discretion [R11(3)].

If they cannot qualify in either of these ways, consider whether for humanitarian and compassionate reasons, the program manager might use the delegated authority (R2.1) to waive selection criteria [R8(1)(a)]. Where there is evidence of a relationship, you may recognize undue hardship could result from separation of common-law spouses or same-sex partners.

When you identify humanitarian and compassionate factors, you may note as well if the relationship was entered into primarily to gain admission to Canada.

Even if you receive sponsorships for applications from common-law spouses or same-sex partners, assess them against the selection criteria in Schedule 1. If they do not qualify for selection, selection on discretion or waiver of selection criteria, you must refuse their applications. You should explain in your refusal letter that they fall into A19(2)(d) because they do not fulfil or comply with the definitions of spouse and member of the family class in R2(1) and the selection criteria referred to in R8(1)(a). You must make it clear in your case notes and on the assessment record why applicants did not fulfil or comply with the regulations you are citing. Send a copy of the refusal letter to the CIC or CPC where the sponsorship was approved.

4.2.3 What is a legal marriage or divorce?

You may doubt a marriage or divorce was legal where it took place. Refer the matter, with available documents, to the mission responsible for that jurisdiction. If that mission cannot resolve the question, you may consult with the Director, Case Review (BCM), Case Management Branch (BCD), NHQ. (See alsoOP 2.)

4.2.4 Are proxy marriages legal?

At a proxy marriage one of the participants is not present and has named a proxy to represent him or her. If the law of the country in which the marriage ceremony was performed permits proxy marriages, they are legal marriages.

The marriage laws of Canadian jurisdictions do not allow a participant to designate a proxy.

A marriage in which one party participates by phone in the ceremony without a proxy, is not a proxy marriage. Such a marriage would not be a legal marriage because the jurisdiction of the marriage is unclear.

4.2.5 Who can be a dependent daughter or a dependent son?

A comprehensive answer to this question is in OP 2.

R2(1) defines daughter and son, as well as dependent daughter and dependent son. The former are either the female or male issue of a principal applicant who have not been adopted by someone else. Daughters and sons are dependent by virtue of satisfying one of three sets of conditions in the definition.

The first set is the simplest. The daughter or son must be both less than 19 and unmarried. Less than 19 means up to and including the last day of age 18. Unmarried means not presently married. They may be divorced or widowed, living common-law, or parties to a marriage that was annulled as long as they are less than 19. They may also be employed full-time and living separately from their parents if they are less than 19.

The second set of conditions is more complex. To be dependent the daughter or son must be enrolled and attending full-time an academic, professional or vocational program at a university, college or other educational institution. Their enrolment and attendance must be continuous since they attained 19 years of age or, if they married before then, since their marriage (see also R2(7) and OP 2). You must also determine that they have been wholly or substantially financially supported by their parents since attaining 19 years of age or, if they married before then, since their marriage.

The third set of conditions is as complex as the second. A medical officer must determine the son or daughter suffers from a physical or mental disability. An immigration officer must decide, on the basis of the medical officer's determination and other information that, because of their disability, they cannot be self-supporting and are wholly or substantially financially supported by their parents.

4.2.6 Who is an accompanying dependant?

An "accompanying dependant", is a dependant of a principal applicant who receives a visa at the same time as the principal applicant, to accompany or follow the principal applicant to Canada.

Accompanying dependants cannot seek landing before principal applicants. If they do not travel to Canada together, accompanying dependants must follow before the validity date in box 33 of the principal applicant's visa.

With the following exceptions, the Regulations require immigrants and their dependants, whether accompanying or not, to meet the requirements of the Act and Regulations.

- "Opted-out" unmarried children over twenty-one of an immigrant who applied before March 27, 1992, or "opted-out" unmarried children over twenty-one of family class applicants sponsored before the same date (J 88 regulations apply to their applications).
- Non-accompanying dependants of Convention Refugees.
- Spouses separated from and not living with applicants (the applicant must submit written evidence of the separation).
- Children of an applicant or an applicant's spouse who are in the legal custody or guardianship of the spouse or ex-spouse.

If a dependant is not covered by an exemption and legitimately unavailable for examination (e.g. subject of a missing persons report filed with the police before the application for permanent residence was made), immigrant applicants can sign statements indicating they understand they may be permanently separated from the unexamined dependant. R6(1)(a), R9(1)(a) and R10(1)(a) all prevent you from issuing visas to applicants with unexamined non-accompanying dependants. Only the Minister can waive these regulations for humanitarian and compassionate reasons. In such cases you must complete the remarks section of the IMM 1000 according to instructions at item 3., APPENDIX A of ID 3, *Landed Immigrant Data System*.

4.3 What about guardianship of minors?

The question of guardianship arises in the case of young immigrants who are not accompanying or are not destined to a legal guardian. Officers must resolve the question of guardianship to the satisfaction of all concerned, whether in Canada or abroad. Provincial approval is required in cases of persons who are not destined to a parent or legal guardian and who: if under 18, are proceeding to Alberta or Manitoba; if under 19, are proceeding to British Columbia; if under 16, are proceeding to any other province except Quebec, which does not exercise jurisdiction in such cases.

4.4 What is the effect of adoption on sponsorship or assistance?

Adoption severs ties with natural parents and relatives. Adopted persons may not sponsor or assist any of their natural relatives.

4.5 Children of unmarried parents

Children of unmarried parents may be sponsored by either parent. They may also be accompanying dependants of either parent.

Children born to unmarried parents may be unable to obtain standard proof of relationship to their parents. Where this is this case you may consider documents that corroborate the claimed relationship. These include the following.

- Baptismal certificates bearing the name of the parent.
- School records identifying the parent.
- Proof of long term support by the parent such as money order receipts or income tax statements listing the applicant or accompanying child as a dependant.
- Affidavits from prominent citizens attesting to their knowledge of the child's paternity or maternity from birth.
- For residents of the Province of Quebec, a legal ruling called Reconnaisance de paternité (Acknowledgement of Paternity) obtainable under provincial law, constitutes evidence of paternity. Other provinces may have similar declaratory judgements which would be equally acceptable. It is the sponsor's obligation to obtain such documents.

In the absence of these documents, you may accept the results of a DNA test of relationship (see next section).

Where these conditions cannot be met but the sponsor or principal applicant has always contributed to the child's support, development and welfare, and where other circumstances corroborate the claim to parenthood including the agreement of the other parent or legal guardian, as appropriate, then a positive decision is appropriate. You should obtain consent of the child's other parent or legal guardian to the child's immigration, whenever possible, to preclude future custody disputes.

Where all possible proof of relationship is inadequate and the circumstances of the case do not warrant special consideration, it is appropriate to refuse the application. If the child has been listed as an accompanying dependant, principal applicants can delete the child from the application.

4.6 Divorced immigrants (see also OP 2)

Divorced applicants may have legal obligations arising from their divorce. These often include alimony or child-support payments, as well as the terms of child custody orders.

An obligation to pay alimony or child-support is only material to applicants ability to adapt to Canada. You cannot insist that applicants make arrangements to continue paying alimony or child-support. Nor can you insist they submit proof their ex-spouses are satisfied with payments arrangements. If these break down, the ex-spouses must apply to a Canadian court to have their rights recognized.

With regard to custody of children, R6(5)(b) prevents you from issuing immigrant visas to dependants as accompanying dependants, children in the legal custody or guardianship of the spouse or ex-spouse of the applicant or the applicant's spouse.

As well, it is illegal to abduct a child under 16 *[Criminal Code,* section 280(1)] or under 14 (C.C. section 281) from the legal guardian (father, mother, guardian or other). Applicants accompanied by children under the legal guardianship of someone who has not agreed to let them travel, are about to commit a criminal offence. They do not commit the offence until they depart for and arrive in Canada. They would fall into A19(1)(d).

If you have reasonable grounds to believe A19(1)(d) describes applicants, explain your reasons to them. They must prove they are not inadmissible for this reason. Written consent of the legal guardian or, if that is not possible, permission of a court, is satisfactory proof.

You should ask for the same proof of consent if the court attached conditions to a custody order (usually visiting rights).

4.7 Separated spouses

When an applicant is separated, you should be mindful of the same considerations as for divorced applicants. You must also be satisfied the separation is genuine. Bear in mind as well that a legal marriage still exists.

4.8 Immigrants with legal obligations

Immigrants may have legal or other obligations in their country of residence. These obligations may affect their ability to successfully establish. You can weigh the effect of legal obligations in your selection decision.

4.9 Applicants seeking to qualify for pension or allowance

Some people claiming a Canadian pension or allowance may apply for admission to meet residence requirements attached to it. They must comply with the requirements for admission applicable in their case. Possible qualification for a pension or allowance, and anticipated benefits, are not factors that determine admissibility.

5 DNA TEST FOR RELATIONSHIP

CIC accepts DNA test results as proof of parent/child and sibling relationships. The test compares DNA profiles extracted from genetic material, usually blood or saliva, taken from persons claiming to be father, mother, child(ren) or siblings.

5.1 When is a DNA test appropriate?

A DNA test to prove relationship is a last resort. When documentary evidence is not satisfactory evidence of a bona fide relationship, you may advise applicants that positive results of DNA tests by a laboratory (listed in APPENDIX F) are an acceptable substitute for documents.

5.2 What must you tell applicants about DNA tests?

Inform applicants that the decision to be tested or not is entirely their own. They must understand that they or their sponsor pay all costs for sample taking, shipping, laboratory analysis and report submission ***directly*** from the laboratory to CIC.

Provide clients with the names and addresses of the laboratories listed in APPENDIX F. Applicants, their sponsors or representatives are responsible for choosing a laboratory.

Explain that the government bears no responsibility for the test. It is done by private laboratories who will forward copies of test results to immigration offices or missions. Applicants must sign a release and client consent form (supplied directly by the laboratory to the applicant) before laboratories can forward test results.

5.3 What are the procedures for DNA testing?

Parentage tests should, whenever possible, involve samples of genetic material from both parents and the child(ren). If there is no possibility of obtaining samples from both parents, tests of samples from one parent (either father or mother) and the child(ren) are acceptable.

Obtaining samples in Canada is relatively straightforward. The same cannot always be said when samples are taken abroad. If a DNA test result is presented as evidence of a relationship, you must have the almost confidence in the testing procedure. As you will only suggest this test when you already have doubts about claimed relationships, any possibility of fraud must be eliminated.

Ensure samples are taken from the applicants about whom you have doubts. Ensure the samples are properly labeled, packaged and shipped to the laboratory in Canada.

Laboratories listed in APPENDIX F will forward a tamper proof sampling kit (including instructions) to the client or the mission (depending on the preference of the mission). Some missions stockpile kits and distribute them on notification from the listed laboratory. The kit is self-contained with everything necessary to take, pack, and ship a sample. It also includes instructions for applicants and mission staff witnessing sample taking. Following these instructions ensures the reliability of results from the sample.

You are responsible for assuring local sample taking arrangements are tamper proof. Immigration medical officers will help identify suitable laboratories or itinerant medical personnel able and willing to take samples.

Inform the applicant when and where they must give a sample. Applicants must bring two recent photos (passport size and quality). The photos form part of the documentation shipped with the sample blood. Applicants must also bring documents to establish the identity they claim.

A visa officer or other mission official must be present when the sample is collected. They must ensure the person giving the sample is the applicant and identified in the sampling kit. They must also verify that the sample kit has not been tampered with and complete the chain of custody documents (or witness their completion).

Package the sample and documentation according to instructions in the kit. Forward the package to the laboratory by the fastest, most reliable means possible. Ideally, no more than seven (7) days should elapse between the sample taking and receipt by the laboratory. Normally, private courier services, paid by the applicant, are able to deliver samples within this deadline.

6 COUNTRIES WITH EXIT CONTROLS

Nationals of the following countries who wish to emigrate or travel abroad are required by their governments to have an invitation. Without an invitation they will not be granted passports or exit permits: Cuba, Democratic Peoples Republic of Korea, Mongolian People's Republic.

Relatives or friends of applicants should contact these countries' embassies directly for up-to-date information on how to submit an invitation.

7 REQUIREMENT FOR TRUTHFULNESS

A9(3) and A12(4) require applicants to produce documentation and answer truthfully all questions related to their admissibility.

Untruthfulness may take the form of false oral or written statements, as well as false documents. You must decide if applicants intend to mislead you, or are simply inaccurate. Their untruths must have direct bearing on their own, or their dependants' admissibility.

While persons who do not comply with A9(3) or A12(4) may fall into A19(2)(d), you should avoid refusing their applications citing this reason alone. Applicants who misrepresent themselves usually do so to conceal other grounds for inadmissibility. For example, someone who does not admit to a conviction may also be criminally inadmissible. In such a case you would find the appropriate inadmissible class in section 19 and cite it in your refusal.

If you cannot find other grounds, consider whether the untruth was pertinent to the question of admissibility.

If you think applicants are being untruthful, inform them of the requirement for truthfulness. You should also mention the possible consequences of false statements.

8 INTENTION OF APPLICANTS

Sometimes applicants for permanent resident status in Canada know they will give it up at some date in the future, to live in another country. Usually, they will emigrate from Canada for career-related reasons. You may regard applicants in these situations as immigrants.

Applicants for permanent residence may visit Canada, subject to the same requirements as other visitors.

9 HIGH PROFILE OR CONTENTIOUS CASES

High profile cases result from a variety of applications and situations. They are not limited to applications involving questions of security.

Case Management Branch (BCD) channels communications within the Department on high profile or contentious cases.

You should report cases of immigrants as well as visitors, that are potentially controversial or high profile for any of the following reasons.

- Applicants with public profiles.
- Serious criminality [A19(1)(c), (c.1), (c.2), (d), and (j)].
- Security concerns [A19(1)(e), (f), (g), (k), and (l)].
- Intense media interest.
- Provincial jurisdiction over minors.
- Highly-publicized cultural, sporting events, and international conventions.

You do not have to inform NHQ of routine visits of ministerial level representatives of other governments.

Address all communication to the appropriate bureau(s) of BCD as outlined below.

Copy the International Region geographic desk when cases are of national interest, and when the program manager thinks there is potential impact on bilateral relations or another important facet of program operations.

BCD is divided into 4/4 directorates:

- BCL - Litigation Management.
- BCZ - Security Review is responsible for cases where security is the major issue, including cases involving A19(1)(e), (f), (g), and (k).
- BCM - Case Review reviews applications for rehabilitation, requests for concurrence to issue Minister's permits in cases of criminal inadmissibility, landing of medically inadmissible applicants [A38(1)], and regulatory exemptions [A114(2)].
- BCO - Organized Crime Division is responsible for cases of members of criminal organizations described in A19(1)(c.2) and A19(1)(d)(ii). BCO is also responsible for BCD liaison with the RCMP.

10 WHAT IS PROCEDURAL FAIRNESS?

Procedural fairness is a broad concept, difficult to define comprehensively. It applies to all types of applications and all facets of processing.

The following are some of the principles of procedural fairness:

- Processing without undue delay.

  You must show diligence in processing applications. You must not appear to frustrate processing through unacceptable delays. A delay that you cannot justify is a denial of procedural fairness.

- Whoever hears, must decide.

  Hear in this context does not mean interview. It simply means the person with legal authority to make a decision, must do so.

  The Act, the Regulations and various delegation instruments are specific about who has authority to make decisions.

  When you use your decision making authority, you assess information. If you are the only person who looks at information or deals with applicants, it is clear you heard (not necessarily in an interview) and decided.

  When you are not the only person dealing with applicants, who hears and decides may be less clear to them. They may present information to someone not authorized to make the decision.

  This person is an intermediary who must pass all relevant information from applicants to you. The intermediary cannot assess the information for you and arrive at a decision for your approval. The record of your decision must show you made it after assessing all pertinent information from the applicant.

  Often you also rely on subjective assessments to make decisions. If your decision hinges on such assessments (e.g. abilities in English or French, personal suitability or credibility), it must be clear to the applicant you made the assessment. You must not appear to rely on someone else's subjective assessment.

- Applicants must have an opportunity to disabuse you of your concerns.

  You must meet this requirement in all cases, but to different degrees. The opportunity should be proportionate to the complexity of the application. You should also be able to prove it arose before you decided to refuse the application.

  With visitor visa applicants you may have an exchange of your concerns and their responses during a short interview. You should keep a brief record of this exchange in the case notes.

  Immigrant applicants and some visitors may need more time to address your concerns. Your record of the exchange will be more detailed in these cases. Indeed, when your concern is medical in nature, you must follow special procedures (see OP 14). You must also follow specific instructions to assess the occupational experience of skilled workers (seeOP 5).

- Decisions must be based on the *Immigration Act and Regulations.*

  You must cite a provision of the Act or Regulations in your record of a refusal. You cannot explain refusals with references to policies outlined in this, or any other manual.

- Discretion must not be improperly fettered.

  If the Act or Regulations give you complete authority to make a decision, you must clearly exercise your authority. You can, of course, take advice before making a decision. It should be plain to applicants though, that you have used your authority

to decide freely. The record of your decision should also indicate that after weighing guidance among all relevant factors, you came to your own conclusion.

If you represent advice from a superior, headquarters or procedures manuals to applicants as the decision, you restrain your discretion. You would be violating two other principles of procedural fairness, namely: (1) whoever hears must decide; and (2) applicants must have the opportunity to disabuse decision makers of their concerns.

- Applicants must receive fair and equable treatment.

  We must be consistent in our treatment of applicants in similar situations.

11 SECURITY SCREENING OF IMMIGRANTS

Section 15 and Section 16 of the *Access to Information Act* exempt parts of the security screening process from public access. Visa officers and Immigration officers should read these guidelines with chapter IC 1, Security and Criminal Screening of Immigrants of the classified manual.

Security screening procedures identify persons seeking admission who are, or have been, involved in espionage, subversion, or terrorism. Note that a security screening clearance does not mean applicants do not have a criminal record.

The security of Canada is a matter of vital concern. You are responsible for ensuring that persons who may be threats to the safety and good order of our society are denied entry. You also help promote international order and justice by denying them use of our territory. These goals are important and your strict compliance with security screening procedures is required to achieve them.

Responsibility for responding to queries about delays in immigration processing rests with our Department. On no occasion should you refer anyone to the Canadian Security and Intelligence Service (CSIS) or any other government department.

You may refer to the background inquiries carried out by the Department, but specific details of the process are exempt from public access. You cannot refer to them explicitly.

Refusal letters should simply quote the part of A19 you rely on to refuse the application. You do not have to explain the security screening process.

Please consult OP 2 for information about using non-releasable information to refuse family class applications for security reasons.

12 PRIVACY ACT

The *Privacy Act* protects personal information about all clients. It does not give all clients the right of access to personal information from their files. Only Canadian citizens and permanent residents have access rights under this Act. Non-permanent residents and non-citizens also have access rights if they are in Canada.

All clients may authorize the release of personal information to a representative. Only those with access rights can request you release personal information to a representative under the terms of the *Privacy Act*. This representative must be a Canadian citizen or permanent resident. If appropriate, you can tell authorized representatives of clients without access rights to request information under the *Access to Information Act* instead (see next section).

Applicants must provide authorizations in writing and name individuals. You may accept authorizations received by fax.

The *Privacy Act* does not prevent you from contacting clients at c/o addresses they provide on their applications. The person or firm named in the address does not have to be a Canadian citizen, permanent resident or corporate entity in Canada.

Before releasing personal information, confirm the identity of requesters and your authorization to release personal information to them.

Personal information includes any identifying information on or about a client of the Department. It also includes confirmation of the existence of a client's file or record.

You may disclose personal information by fax or by telephone, subject to security guidelines. When you use the telephone, you must know you are talking to someone authorized to receive personal information.

12.1 Members of Parliament

Section 8(2)(g) of the *Privacy Act* allows Members of Parliament to receive personal information without written consent when they need it to assist whoever it pertains to. Members of Parliament are sitting members of the House of Commons or the Senate.

When Parliament is dissolved you may receive special instructions to release information to former Members of Parliament. The Minister decides whether or not to issue these instructions each time Parliament is dissolved. They do not apply from one period when Parliament is dissolved to the next.

You may reply directly to constituency offices. You do not have to reply to a House of Commons or Senate address.

MPs usually delegate constituency business to constituency assistants. These assistants request personal information on the behalf of MPs. You may release personal information to constituency assistants provided it is clear MPs have named them for this purpose. Written requests for personal information on the letterhead of an MP, signed by constituency assistants, do not pose a problem. You simply address your written reply to the MP.

You may release personal information to constituency assistants over the telephone when you are certain MPs have named them for this purpose. If you are uncertain, you may ask the assistant to request the information in writing or by fax. Also, if the information is of an extremely personal nature, e.g. medical records, you may require a request in writing or by fax.

12.2 Exempt information

Only *Public Rights Administration* (BMX) at NHQ can exempt information requested under the *Privacy Act* from release. The information may make up the entire record or just a portion of it. Provide BMX with a copy of any information you think you cannot

release. Explain why BMX should exempt this information from release. Chapter 33 of the Privacy Manual contains guidelines for exempting information from release.

12.3 Requests from CICs/CPCs for visa office files

CICs and CPCs have some responsibility for administration of *Privacy Act* access rights in Canada. They must respond to access requests within thirty days even if the file is at a visa office. When you receive a request for a file, copy it without additions or deletions. Send the copies to the office requesting the file by the next unclassified bag. If the next bag is not scheduled to depart within a week of receipt of the request, forward the records by commercial courier.

13 ACCESS TO INFORMATION ACT

The information you can release under the *Access to Information Act* (ATI) is broader than information releasable under the *Privacy Act*. The latter legislation provides access to personal information only. ATI requests may be about anything, including records on non-case files.

Clients must make ATI requests through BMX at NHQ. They must pay a $5.00 application fee. In some cases, clients must also pay processing costs. BMX must answer requests within thirty days or forfeit the fees.

If you receive a request from BMX for information, you must respond immediately. A Record Assessment Guide will accompany the request. Follow the instructions on the Guide. Make two copies of the record(s) and file jacket of immigrant files. Send the copies to BMX by the next unclassified bag. If the next bag is not scheduled to depart within a week of receipt of the request from BMX, forward the records by commercial courier.

14 THE THIN FILE POLICY

The Thin File Policy is the result of streamlining initiatives taken at several posts following the switch to Computer Assisted Immigration Processing System (CAIPS). Legal Services (VGD), Litigation and Legal Issues Division (ORL), Public Rights Access Administration (FCIP), Program Coordination Division (ORC) and National Archives of Canada reviewed and endorsed the policy for compliance with relevant legislation.

14.1 What are the objectives of the Thin File Policy?

The Thin File Policy increases the efficiency of processing by reducing paper files. It also facilitates file destruction through the introduction of microfilmed records and helps save money by reducing the space required for storage.

14.2 Principles of the Thin File Policy

Posts have authority to retain minimum paper documentation on immigrant and non-immigrant files in accordance with the guidelines in Section 14.3.

In most cases, receipt of routine and statutory documentation is noted in CAIPS notes or case notes and either returned to the applicant or discarded.

Documentation obtainable from other sources is not retained on finalized files. Examples include copies of immigrant visas, employment and student authorizations, returning resident permits, EMP 5056 or 2151 forms, CAQs and CSQs. Relevant details from these documents are recorded in processing notes.

There are no legal impediments to immediately microfilming documentation on approved and refused files. Microfilmed documentation is admissible in court proceedings under Section 31 of the *Canada Evidence Act*.

The National Archives of Canada requires that the paper file be retained where an applicant might have been involved in war crimes or crimes against humanity. Five years after finalization, forward these files to the Government Archives Division (GAD) of the National Archives of Canada, 395 Wellington Street, Ottawa, Canada K1A ON3.

14.3 Guidelines of the Thin File Policy

- During processing.

  Do not file documents which support routine processing. Examples of such documents include birth, marriage, education certificates, copies of passports on immigrant files and curriculum vitae, school acceptances, statements of net worth, letters of invitation on non immigrant files. Record the date of receipt and nature of contents, where applicable, in CAIPS notes or file notes at non-CAIPS posts.

  After recording receipt, either discard the documents or return them to the applicant.

  Your record of information from returned or discarded documents must be sufficiently detailed to permit another officer to continue processing or respond to representations.

  You may keep contentious or questionable documents on file during processing. If you will rely on a document to refuse an application, keep it on file or microfilm after finalization as well (see APPENDIX A).

  You must retain all evidence of applicants involvement in war crimes or crimes against humanity.

  Make case notes on paper files at non-CAIPS missions in black ink. In the event of access to information requests, copies of black ink are more legible.

- Following finalization.

Contents of files may be microfilmed for storage, except for documents relating to applicants involvement in war crimes or crimes against humanity. Keep these documents for five years and then forward them to the National Archives of Canada (see Section 14.2 for the address). Except for applications of persons involved in war crimes or crimes against humity, IMM 0008 may be microfilmed.

At missions without microfilm equipment, retain paper documents according to the file retention and destruction schedule in APPENDIX A. This schedule also applies to microfilming of documents.

Where appropriate, microfilming of documents should immediately follow finalization.

Periods for document retention differ. Separate and microfilm documents according to the following file destruction periods.

- 65 years for IMM 0008 in all cases.
- Five years for criminal/medical/security refusals, controversial cases, or those of particular administrative interest.
- Three years for successful entrepreneur cases.
- Two years for other refusals and finalizations.

15 USE OF FEDERAL GOVERNMENT IDENTIFIERS

The Government does not prosecute individuals or organizations for using the Canadian flag in printed materials. However, the Department has an interest if individuals or organizations use images of Federal identifiers, such as the coat-of-arms or the Federal Wordmark, in a way that leaves the impression of affiliation or connection with the Government of Canada.

In cases where you think an individual or organization has "crossed the line" into the area of misrepresentation, Program Managers should remind offenders they do not represent the Government of Canada. Program Manager should also request offenders stop using printed symbols in misleading ways.

16 EXTENDING THE VALIDITY OF EXPIRE IMM 1000S

You cannot extend the validity of an expired IMM 1000. Nor can you issue a replacement IMM 1000 with a new validity date. If immigrants do not use their visas, they must reapply.

They must pay a new application processing fee. If they have paid a right of landing fee (ROLF), they do not need to pay it again. The ROLF can only be collected once.

Sometimes, due to factors out of their control, applicants receive visas valid for less than two months. If they cannot travel before their visas expire, you may update whichever requirement (e.g. medical) that you used to fix the visa validity. When you have a new validity date, you may issue a new visa.

17 MINISTER'S CONSENT AND REPAYMENT OF DEPORTATION EXPENSES

17.1 Who needs Minister's consent?

A55 describes who requires Minister's consent.

A55(1) concerns deportation orders. Unless applicants successfully appeal these orders, they always need Minister's consent.

> ***Note:*** *Through the operation of various sections of the Immigration Act and transitional provisions of acts amending it, other kinds of removal orders can become deportation orders. When this happens, they have the effect described in A55(1). Consult the definition of deportation order in A2(1) for an exhaustive list of these removal orders.*

A55(2) concerns exclusion orders. Only applicants returning to Canada within twelve months of their departure need Minister's consent. A2(1) also defines exclusion order.

Persons named in deportation or exclusion orders require Minister's consent even if they take advantage of A52(1). A52(1) allows them to leave Canada voluntarily for a country of their choice, unless the Minister directs otherwise. They must follow departure instructions from immigration officials in Canada. Notably, they must report to an immigration officer when they leave. The immigration officer will verify their departure.

You cannot verify departure abroad for the purposes of A 52(1). Removal orders remain in effect against anyone who departs voluntarily without reporting to an immigration officer. They need Minister's consent to return.

Applicants named in removal orders who are in Canada will need Minister's consent as well.

17.2 Who does not need Minister's consent?

Removed persons may return for appeal hearings without consent [A56(1)].

Dependants of a removed person may be included in the removal order [A33(1)]. They do not need Minister's consent to return to Canada [A33(3)].

DR2 and PD2 category applicants do not need Minister's consent [A46.04(3) and R11.4(1)].

A54 creates three categories of people who do not require consent. Only A54(1) requires clarification. This category exists to maintain the effect of a removal order when the person it names is not allowed to enter another country. It also recognizes the practical impossibility this person would face trying to obtain Minister's consent while stuck between two borders. It operates only when immigration officers at a port of entry have evidence a foreign government recently refused entry to the person who left or was removed from Canada (see PE 1, Section 7.2, *Persons under removal order*).

Applicants abroad, without lawful permission to be in another country, are not in the situation remedied by A54(1). They need Minister's consent.

17.3 Who can grant or refuse Minister's consent?

Consolidated Instrument of Delegation 1 (CID-1), item 6C., lists officials delegated by the Minister to grant or refuse consent. It includes officers in charge of visa offices.

17.4 Requests for Minister's consent

You must obtain all available information about the removal from the responsible office in Canada. You should ask for the removing office's recommendation about approving or denying the request. Ask as well if the applicant must repay deportation expenses (see A55.1).

There is no unique application form. Applicants for permanent residence who need Minister's consent will already have completed an IMM 0008. Visitors should complete an application for temporary entry (IMM 1294, IMM 1295 or IMM 5257).

There is fee for processing a request for Minister's consent. Check the latest fee schedule for the amount.

Requests for Minister's consent are only appropriate when applicants are not inadmissible for any reason other than A19(1)(i).

17.5 IMM 1202 - Refusal of consent

For both visitors and immigrants, record refusal of Minister's consent on an IMM 1202. Abroad, only an officer in charge of a visa office can sign this form. Give a copy of the IMM 1202 to the person requesting Minister's consent.

Applicants who only require Minister's consent may also receive a refusal letter. Only an officer in charge of a visa office can sign this letter.

If applicants also apply for a visa or authorization, give them a refusal letter for the visa or authorization application. You should cite A 19(1)(i) as a reason for refusal, but it must be clear you are refusing the visa or authorization application and not the request for Minister's consent.

17.6 Issuing an IMM 1203 - Approval of consent

For both immigrants and visitors, record approval of Minister's consent on an IMM 1203 and in CAIPS notes. For immigrants, complete the IMM 1000 according to instructions at item 18, ID 3 and item 8, APPENDIX A, ID 3, Landed Immigrant Data System. Inform applicants that they must present the IMM 1203 at a port of entry.

Abroad, only an officer in charge of a visa office can sign an IMM 1203 and make the entry in CAIPS notes.

Check the box appropriate to either visitors or immigrants. Make two copies of the original. Give the original to the applicant. Send one copy to the office that removed the applicant from Canada. Send the second copy to Quality Assurance, Operations (BIO), Information Management and Technologies Branch (BID), NHQ, with an IMM 1118 to confirm receipt.

17.7 Who must repay deportation expenses?

A55.1 describes applicants who must pay the amount prescribed by A114(1)(r) and referred to in R42.1. This amount will be one of the two in Schedule VIII of the Immigration Regulations. They are financial penalties for not leaving Canada before a departure notice turns into a deportation order through operation of A32.02 [see definition (c) of deportation order in A2(1)].

Before collecting these prescribed costs you must verify A55.1 applies. Check with the office that removed the applicant. Removal officers will consult their records and inform you if the Department paid any removal costs (transportation or detention). If the Department paid, you collect the prescribed cost set out in Schedule VIII only. You do not collect the actual amount paid by the Department.

You must collect the prescribed cost for each person included in the removal order for whom the Department paid removal costs. Unlike, Minister's consent, A33 does not exempt dependants from the effect of A55.1.

Determine which of the two prescribed costs in Schedule VIII to collect, according to the final destination of the applicant. Applicants who transit the United States or St. Pierre and Miquelon en route to their destination must pay the higher of the two prescribed costs in Schedule VIII.

If applicants or transportation companies pay removal costs and there is no pre-removal detention, A55.1 does not apply.

18 APPLICATIONS FROM DIPLOMATIC, CONSULAR AND OFFICIAL PERSONNEL

When you receive an application for permanent residence from anyone with diplomatic, consular or official status in Canada notify Diplomatic Corps Services (XDC) in the Office of Protocol, Department of Foreign Affairs and International Trade. Provide XDC with the name and position of the applicant.

Tell applicants that as well as meeting all other requirements for visa issuance, they must:

- prove their missions informed XDC their assignment is over and that XDC cancelled their official acceptance; and
- obtain an ordinary passport. R14(1)(a) does not alloy you to issue an immigrant visa to holders of diplomatic, official or similar passports.

If applicants cannot prove their missions have notified XDC of the change in their status, they may submit proof of cancellation of official acceptance alone.

Without official acceptance applicants no longer enjoy the benefits, immunities and privileges of diplomatic, consular or official personnel.

19 RESPONSES TO ENQUIRIES AFTER REFUSALS

Applicants or their representatives often submit information after a refusal. Do not acknowledge receipt and consideration of this information when responding. To do so could open the refusal decision to review beyond the time limits for applying for judicial review (thirty days after the date of the refusal letter). Also, when the response states the refusal decision was reviewed by someone other than the officer who made it, the courts may look on the review as a new decision.

Invite applicants or their representatives to submit new information with a new application. APPENDIX B contains a sample letter of response to this effect.

20 INTERACTION WITH PRACTITIONERS (LAWYERS AND CONSULTANTS)

20.1 Purpose

This section is to inform all CIC Staff both in Canada and overseas on how to interact with practitioners. These instructions replace OMs OP 98-15, OP 00-04 and PE 98-13.

20.2 Policy on Practitioners (Lawyers, Consultants)

Applicant representatives i.e., lawyers and consultants, have a legitimate role to play in assisting persons who apply to visit or immigrate to Canada and those applying for citizenship. All applicants should be treated equally whether or not practitioners represent them.

20.3 Instructions

Part A - applies equally to immigration and citizenship offices in Canada and to visa offices abroad.

Part B - Sections (i), (ii), (iii), (vi), (vii) and (xiii) apply equally to immigration and citizenship offices in Canada and to visa offices abroad. While the remaining sections were drafted specifically for visa offices, they may also be useful for immigration and citizenship offices in Canada.

PART A: PRINCIPLES

(i) Equality, Fairness and Impartiality

Practitioners contribute to the design of policies at Headquarters, but they are not our partners in the field as they represent the interest of individual cases. As the applicants' representatives, legally mandated through written authorization, they are to be accorded the same service standards and courtesies given to applicants.There must be a level playing field between applicants who are represented and those who are not. Equally, there must be no difference in the access, which various applicant representatives have to our offices. Representatives who have high volume submissions or who are seen to be especially cooperative, et cetera should not be afforded better access than others.

(ii) Professional Non-adversarial Relationship

How we conduct our work is under increased public and legal scrutiny. We must also be perceived as having an "arm's length" relationship with applicant representatives just as we do with individual applicants. This means that direct hospitality (lunch, trips to the races, et cetera) should not be accepted. A professional, non-adversarial relationship must be maintained in which our fairness and objectivity cannot be called into question because of the appearance of conflict of interest or bias.

PART B: SPECIFIC INSTRUCTIONS

(i) Authority to disclose personal information

- The applicant may appoint a practitioner as his/her representative by completing the authorization to disclose personal information Part C (3)(b) of the Family/Independent application and Part I(1)(c) of the Business application.
- This authorization is subject to the Access to Information Act and the Privacy Act which entitle individuals who are Canadian citizens, Permanent Residents or who are located in Canada to all rights granted under the Act.
- Prior to releasing personal information, we should continue to ensure that practitioners meet one of the above requirements in order to comply with the Acts.

- Once a practitioner has been designated, we are required to deal with a practitioner, who is acting on behalf of the applicant, in the same manner that we would normally deal with the applicant.
- It is suggested that practitioner lists include the practitioner's citizenship status in order to avoid duplicating requests for proof of status when one practitioner is involved in several cases at the same Canadian office or overseas visa office.

Copying applicants on correspondence to a designated representative

- Once the applicant has designated a practitioner and has listed the practitioner's address as his or her mailing address under Part A (6) of the IMM 0008, we must correspond with the practitioner on all correspondence including medical instructions and visa issuance.
- Copying applicants on correspondence to practitioners may continue if there is a valid operational reason for doing so (for example, applicants not receiving requests for missing documents). This reason should be communicated to the practitioner in order to resolve the problem.

Refusing to communicate with a designated representative

- Generally officers should not refuse to communicate with or ignore practitioners even if we suspect that the practitioner may be involved in criminal activities or is not acting in the best interest of his/her client.
- Decisions not to communicate with practitioners should only be made after careful consideration of the facts, the most important of which is whether there is a legitimate concern that the applicant has not or will not be made aware of the status of his or her application including the date and place of interview.
- Serious concerns such as those stated above should be communicated to RIM for overseas offices and to Regional HQ for in Canada.
- We should refrain from indicating to new applicants any previous difficulties we have had with the practitioner that the applicant has designated or authorized C&I to communicate with.

Counselling applicants during interview

- Once the applicant has signed an authorization, we should not appear to suggest to or solicit the applicant to change or abandon his/her practitioner by asking applicants to sign another authorization/consent.
- We should refrain from soliciting information from applicants concerning fees being paid to representatives, as well as, how and why the applicant has retained a representative.

The following situations have been cited as regular occurrences:

- during verification of mailing addresses at interview, the applicant provides an address different from the one indicated on the IMM 0008;
- applicants verbally indicate that they are no longer represented;
- applicants verbally indicate the designation of a new representative;
- applicants verbally indicate that we should no longer communicate with the designated representative; or
- applicants verbally indicate that they are still represented but request that the visa or other documents be sent directly to them rather than the representative.

Where an applicant is represented, it is assumed that the representation remains valid and should not be the subject of any counseling between the visa office and the applicant unless the applicant in writing revokes the representation. If the applicant advises that the previous authorized counsel no longer represents them, the proper course is to obtain the direction for revocation of the previous representative and authorization for the new representative from the applicant, and to send a copy of the revocation to the previously authorized counsel. See APPENDIX D for authorization and direction prepared by Legal Services.

(ii) Responding To Case Status Inquiries

- Once we are satisfied that the practitioner has been designated we may respond to straightforward case status inquiries verbally or in writing. If there is any doubt as to the representative's identity, information should not be given over the telephone.
- Any complex or in-depth inquiry or discussion related to an individual case should be accepted and responded to in writing only.
- Any case specific interchange of information should have a written record, including an annotation in the CAIPS/Stairs/FOSS case notes to ensure that no misunderstandings occur.

(iii) Non Specific Inquiries

- Managers and officers should not allow themselves to be drawn into a "hypothetical" discussion, which could involve the facts of an actual case.
- Similarly, no commitment should be made on how a case will be treated until a formal application has been made.

(iv) Private Versus Group Information Sessions

- Many representatives request private sessions in which to inform themselves of "local office procedures". This diverts scarce resources from case processing.
- When major changes occur which affect processing, managers are encouraged to hold general group information sessions for local applicant representative organizations to inform them accordingly. It is recognized that some offices have little contact with lawyers and consultants, and as such group information sessions would not be appropriate.
- Applicant representatives may join professional organizations, which provide updates on changes as well as information and training services to their members.

(v) Presence of Counsel

- The general approach is to limit attendance at interviews to the individual applicants and visa officers should follow this approach which appears to be supported by case law in the Federal Court. The doctrine of fairness does not require that counsel be present at interviews nor does the Immigration Act provide for the right to counsel in this context.

(vi) Interpreters

- Some offices have experienced practitioner representatives or their employees presenting themselves as interpreters. Clearly, this is not acceptable and may place the practitioner in a conflict of interest since the practitioner could not claim to be unbiased. Visa officers should therefore decline all such offers/requests.
- Managers are encouraged to develop lists of interpreters by determining which local agencies meet our requirements for honesty and competence and direct applicants to them.

- Instructions on hiring and using interpreters in Canada are contained in SA7 and may be useful reference material on this matter. LES may however continue as interpreters with consent being sought from the applicant and noted in CAIPS.

(vii) Taping of Interviews

- Traditionally, the Courts have ruled that a meaningful judicial review can be conducted by the courts and the failure to have available a full verbatim transcript of the proceedings does not prejudice a person's ability to carry out this judicial review nor does it deprive him of natural justice. Therefore, in the absence of a statutory right to tape proceedings, courts have the power to determine whether the record before it allows it to properly dispose of the application before it. Accordingly, the absence of a transcript will not violate the rule of natural justice. There is therefore no obligation to allow applicants to tape interviews.

(viii)Letters of Non Objection

- Requests for letters of non-objection from practitioners advertising immigration services in local newspapers have been requested. Remain neutral and respond in the negative to this or any other type of letter request, which may be perceived as demonstrating support or favoritism to a particular private enterprise or individual.

(ix) Advertising Guarantees by Practitioners

We sometimes become aware (either through applicants or newspaper advertisements) of immigration practitioners providing misleading information, implying visa guarantees or implying special access to a visa office. Counsel applicants by providing them with information or deter these unscrupulous practices by implementing the suggestions listed below:

- Counsel applicants when occasions present themselves either in writing or verbally about advertisements informing them that no one can promise visas
- Write to the practitioner asking him/her to cease and desist to see if this produces any results.
- Notify local police of advertisements, as they may constitute a criminal offence in the country of origin of the practitioner or the country of the paper where the ad appeared.
- Communicate with the editors of these journals to notify them that such ads are false and misleading and should not be published.
- Write a letter to the editor, with a view to having it published, pointing out the inaccuracies in the previous ad and set out the true facts for readers.
- If the practitioner is Canadian based, these actions may constitute an offense under the Immigration Act - Section 94(1)(m) which even if committed outside Canada could result in criminal proceedings being brought against the practitioner in Canada by virtue of Section 100 of the Act.
- As a last resort, Federal government disclaimers could be published. However, we recognize that this would require regular publishing and result in large expenses to the missions.
- Serious concerns such as those stated above should be communicated to RIM for overseas offices and to Regional HQ for in Canada.

(x) Verification of Information/documents with a Third Party

- Practitioners expressed concerns that visa officers were infringing the Privacy rights of applicants when they attempted to verify information and/or documents by discussing them with someone other than the individual noted on the document (for example, the author of an employment letter).
- The Immigration Act [Sections 9(3) and 12(4)] and the Privacy Act [Section 5(3)] support our authority to conduct verifications of the authenticity of supporting documents but only in the context of assisting in the administration and enforcement of the immigration legislation.
- As CIC always tells people not to abandon their employment until the visa is issued, verifications with present employers should be handled with sensitivity (i.e. consequences to employment and perceived unpatriotic action by applicant's country).
- It is not essential to have the document verified by the actual author. However, the person(s) with whom you check the document must be consistent with the information you are checking (for example, a personnel department if it is an employment letter or a central archive in the case of a civil document such as a birth certificate).

(xi) Retention of Visas for payment

- We do not have the authority to act as moderators in a dispute between the applicant and his or her representative nor do we have the authority to regulate consultants.
- Legal advice suggests that practices which, appear to arbitrarily ignore the authorisation and direction signed by the applicant on the IMM 0008, thereby interfering with the practitioner client relationship runs the risk a legal challenge.
- We therefore caution missions that unless you have written direction from the applicant revoking the previous direction and authorising you to communicate with another practitioner (see APPENDIX D) you should continue to communicate with the practitioner named in the IMM 0008.

(xii) Offshore Processing

Immigrant Applications Another aspect of the relationship with representatives is the phenomenon of "offshore" processing. While applicant representatives have many reasons for directing cases to specific offices, such as finding favorable processing times or preferred officers, many cases require local expertise. It is absolutely imperative for program integrity that all offshore cases be checked in remote CAIPS/FOSSWEB.

(xiii)CAIPS/FOSS

We remind all CAIPS offices that they should routinely capture the names of practitioners (lawyers and consultants) in the CAIPS representative field and compile consistent lists.

We remind all FOSS users that third party/practitioner information should be registered using the WIP (Work in Process) event "L8701-Authorization to Disclose Received" in new and existing cases. Remarks are to be entered under the WIP event to indicate the name of the individual, name of the firm (if applicable), address and telephone number as well as the date the authorization becomes valid. The use of the NCBs for this purpose should be discontinued.

(xiv)Service Standards

Visa offices receiving representations are required to provide responses within agreed to service standards (see APPENDIX C). The service Standard document is not a contract or agreement and does not create an obligation to give special access or procedures to lawyers and consultants.

(xv)Invitations to attend functions

Program managers and other staff who may be approached by applicant representatives and/or their organizations with requests to attend functions should forward such invitations to RID, with a copy to RIM and their geographic desk, to coordinate participation. In some instances, such invitations will be declined and HQ will advise visa offices of the decision. Program managers are not to accept invitations directly or any payment of associated costs (travel, etc.).

(xvi)Acknowledgement of receipt (AOR)

Part (xiv) of the service standard document contains detailed instructions about acknowledging receipt of applications (AOR). The AOR letter is in APPENDIX E. Add the applicant's file number to the text of the letter and include any other available information that anticipates standard enquiries or helps applicants prepare for further stages of processing. use the number of months required to process 80% of applications in the same catagory during the quarter before the application date. This number is available in the/reports/output subdirectory of ISIS under the title PR_PCCUM.CRE.

If this number no longer indicates the likely processing time for furture applications because of factors disrupting normal operations (e.g., surge in application intake, natural disasters or civil unrest) use a more accurate predictor. Inform NHQ (RIM) when you substitute the statistic from ISIS with a local predictor.

21 R2.1 AUTHORITY TO WAIVE R8 AND R14(1) FOR HUMANITARIAN AND COMPASSIONATE REASONS

R14(1) requires immigrants to have passports or travel documents. R8 requires independent category applicants [assisted relatives, entrepreneurs, investors, self-employed persons and applicants assessed against the selection criteria set out in R8(1)(a)] to satisfy selection criteria.

Consolidated Instrument of Delegated 1 (CID) Item 6C., lists officials delegated by the Minister to waive R8 and R14(1). Program managers of visa offices are among the Minister's delegates. Persons acting for program managers in their absence must have signed letters of authority from them to use this delegation.

The Department has not restricted use of this authority to a list of defined circumstances. A list would not be sufficiently comprehensive or flexible. The Department trusts the good judgement and discretion of its officers to recognize when humanitarian and compassionate conditions warrant waiver of R8 and R14(1). Without restricting the foregoing general statements, one could consider, for example, a son, daughter, brother or sister left alone in the country of origin without family of his/her own or an elderly relative such as an aunt or uncle or a person not related but who has resided with the family for a long time. The primary consideration is that the applicant has or would have considerable difficulty in meeting his/her financial or emotional needs without the support and assistance of the family unit in Canada. The department has given program managers wide authority with the expectation they will use it to resolve problems.

The Department also expects program managers to be fully accountable for use of this authority. They must ensure a complete record of the background and rationale for their decision forms part of case files. Visa officers' written recommendations to waive the regulations are part this record. Program managers must sign and date their own decisions.

The record of background and rationale, recommendations and program manager decisions must appear in the case notes of CAIPS files.

Code selection decisions in these cases "3". If the program manager agrees to waive either R8 or R14(1), use code "2" for "other requirements" on the T13. When the program manager does not agree to the waiver recommendation, use "4" instead of "2".

Before February 1, 1993 these codes were used for cases requiring orders-in-council. There is no longer any need for orders-in-council to waive regulations. A114(2) allows the Governor in Council to make a regulation authorizing the Minister to waive, for humanitarian and compassionate reasons, any regulation made under A114(1). The regulation for this purpose is R2.1.

When humanitarian and compassionate grounds exist to waive regulations other than R8 or R14(1), you can recommend waiver to the Minister through Case Management. Program managers abroad or persons acting for them in their absence do not have delegated authority to waive any other regulation.

APPENDIX A
DISPOSITION OF PAPER DOCUMENTATION*

Document	Note and discard on receipt (see [1] below)	Note and discard on selection (see [1] below)	Retain hard copy	Microfilm
IMM 0008			See [2] below	4
IMM 1344A, 1344B				
CAQ/CSQ				
Family Composition			See [2] below	√
Birth/Marriage Certificates	√			
Education Certificates	√			
Copies of passports	√			
Job descriptions or job offers				
Verification of relationship				
Proof of net worth	√			
Business history				
Business proposal				
Form letters	√			
Convocation letter	√			
Status inquiries	√			
Routine telexes	√			
Responses to routine telexes	4			
Professional waiver forms IMM 1455/ IMM 1456	√		√	
Certificate of no conviction	√			
Certificate of conviction			See [2] below	√
Stage B "NRT" stamp				
Security concerns			See [2] below	√
Evidence of war crimes			√	
Evidence of crimes against humanity			√	
Medical results (M1 to M3)	√			
Medical results (M4 to M7)				
Contentious information			See [2] below	√
Refusal letter			See [2] below	√
Statutory declaration			See [2] below	√
IMM 1000		√		

* Individual file circumstances may justify modifications to the retention and destruction schedule

1 *Retain all documents relevant to refusals on paper file up to selection and on microfilm, if equipment is available, after finalization. Documents relevant to refusals for reasons of war crimes or crimes against humanity cannot be microfilmed.*

2 *At missions without microfilm equipment, retain documents and files in paper format according to file retention and destruction schedules.*

APPENDIX B
SAMPLE RESPONSE TO ENQUIRIES AFTER REFUSAL

Dear.....

This letter is in response to your letter of (date) regarding the application for permanent residence in Canada made by (name).

(Name)'s application for permanent residence in Canada was considered on its substantive merits and for possible humanitarian and compassionate grounds and was refused under both heads. (Name) was provided with the decision containing the reasons for refusing (his/her) application for permanent residence in Canada by letter addressed to (him/her) date (date), thereby fully concluding (his/her) application.

Should (name) have different or additional information, (he/she) may wish to submit a new application for permanent residence in Canada.

Yours truly,

(name)
Immigration officer

APPENDIX C
SERVICE STANDARDS FOR COMMUNICATIONS WITH PRACTITIONERS - LAWYERS AND CONSULTANTS

OBJECTIVES

1) The relationship between the International Region ("IR") of Citizenship and Immigration Canada and practitioners should be viewed as one wherein each of the parties has their respective responsibilities and obligations.

2) An overriding principle of all visa office processing is the implementation of processing system that is efficient, transparent and responsive, while preserving fairness and equity to all.

3) An overriding principle in all professional relationships is that each of the parties will treat the other with courtesy and respect. This principle must be respected equally by all parties in this relationship.

4) Members of Professional Practitioner Organizations (i.e. OPIC, CBA, CIPC, AICC and l'AQAADI) and the Citizenship and Immigration Canada will continue to consult each other on processing standards and guidelines.

5) All parties in this process shall continue to participate, whenever possible, in meetings or other events to educate and inform one another as to the practices, procedures and issues pertaining to immigration processing abroad. Participation by all parties, in such meetings or events, will depend on human resources constraints and will be conducted across Canada, at National Headquarters or at missions abroad.

SERVICE STANDARDS FOR COMMUNICATIONS REGARDING IMMIGRANT PROCESSING ABROAD

6) Visa offices must verify that the practitioner has been designated as a representative by the applicant in Part C (3)(b) of the Family/Independent application or Part I (1)(c) of the Business application.

7) Visa offices will verify that practitioners meet the requirements of the Access to Information Act (i.e. are Canadian citizens, Permanent Residents or located in Canada) before releasing personal information to the practitioner.

8) Visa offices will verify that the practitioner's address is indicated as the applicant's mailing address under Part A (6) of the IMM 0008.

ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION ("THE AOR")

9) Visa offices will respond to applications for permanent residence within four (4) weeks from the date of receipt of the application. The response will include:

   a) the applicant's file number;

   b) the approximate time within which the application should be completed based on the category of application; and

   c) other information concerning additional or missing documentation, medical examination instructions or the possible requirement of an interview.

10) Once practitioners have satisfied the requirements of A, B and C the AOR will be provided to the practitioner.

ROUTINE REPRESENTATIONS

11) In order to avoid the unproductive expenditure of visa office resources, practitioners will refrain from making representations requiring a response concerning the status of their clients' files except in the following circumstances:

   a) the applicant or the practitioner, as the case may be, has not received an AOR from the relevant visa office within eight (8) weeks from the date that the completed application is forwarded to the visa office;

b) processing is not completed within the time frame indicated by the visa office on the AOR; or

c) if before the visa officer has made a decision there is a material change of circumstances which would warrant premature communication with a visa officer. A material change is one whereby the method or timing of processing is affected.

12) Visa officers will respond to the circumstances described in subparagraphs a), b) or c) above within thirty (30) days from the date of receipt by such mode of communication as may be appropriate.

13) Representations made by FAX or e-mail should not be duplicated by use of alternative mode of communication.

14) Practitioners will refrain from initiating submissions to the Head of Mission, other government officials, Members of Parliament etc., until such time as the procedures provided in this set of guidelines have been exhausted.

ADHERENCE MECHANISMS

15) In circumstances where processing times are not being adhered to by the visa officer(s), the practitioner may communicate directly with the relevant Program Manager.

16) The Program Manager will respond to any such complaint within ten (10) working days of receipt of the complaint, by FAX or other appropriate means, to the practitioner, addressing the inquiry. The response will, as appropriate, include the reasons for the lack of adherence to the processing times.

17) In the event that there has been a series of cases where the processing times have not been adhered to and the Program Manager has not replied as set out in paragraph 12), the practitioner may communicate directly with the Director of the relevant geographic desk at International Region at NHQ. The Director or a delegate will provide a substantive response to such communication within ten (10) working days of its receipt.

18) In the event that the Director of the relevant geographic desk does not respond to the inquiry within the time-frame set out in paragraph 13), the practitioner may communicate directly with the Director General, International Region at NHQ.

19) Routine representations made within published processing times will not be answered by the visa office. If a practitioner continually makes such routine representations within published processing times, the Program Manager will first communicate this fact to the practitioner concerned, advising him/her of these guidelines with a copy to the geographic desk.

20) In the event that the practitioner concerned, despite this action, continues to make routine representations in an inappropriate manner, the Program Manager may refer the issue to the Director of the appropriate geographic division at International Region NHQ for further investigation and response.

21) In the event that a practitioner fails to deal with a visa office in a professional and courteous manner, (i.e. makes comments related to bias, poor judgment or ill will on the part of the decision maker), the Program Manager will communicate with the practitioner to advise him/her that this type of communication is unacceptable and that he/she should confine comments to the facts of the case. If this action does not resolve the issue, missions should advise the Director of their geographic desk to determine if further action is required.

22) In the event that a staff member fails to deal with a practitioner in a professional and courteous manner, the Practitioner will communicate with the Program Manager providing full details of the situation. However, should the practitioner be calling into question the actions of a Program Manager, he/she should communicate with the Director of the geographic desk who will determine if further action is required.

MONITORING MECHANISM

23) The Practitioner Organizations shall commit to advising their membership of the existence and terms of these guidelines.

24) These guidelines shall be examined from time to time for the purpose of improving client service procedures as may be necessary.

APPENDIX D

REVOCATION OF AUTHORIZATION AND DIRECTION FAMILY AND INDEPENDANT CATEGORY

DATE

I hereby revoke Paragraph B of my Authorization and Direction signed by me on the ____ day of _____ which is contained in Part C(3) on page 4 of my Application For Permanent Residence in the Family/Independent category authorizing the Department of Citizenship and Immigration to release information from my immigration records to _____ and this shall be your good and sufficient authority for so doing.

Hereafter this date, I further direct you to communicate with (me directly or with my new representative) with respect to any and all matters pertaining to my application for permanent residence and to forward to (that person) any information and documentation that may be relevant to my application.

REVOCATION OF AUTHORIZATION AND DIRECTION BUSINESS CATEGORY

DATE

I hereby revoke Paragraph C of my Authorization and Direction signed by me on the ___ day of _____ which is contained in Part I(1) on page 9 of my Application For Permanent Residence in the Business category authorizing the Department of Citizenship and Immigration to release information from my immigration records to _____ and this shall be your good and sufficient authority for so doing.

Hereafter this date, I further direct you to communicate with (me directly or with my new representative) with respect to any and all matters pertaining to my application for permanent residence and to forward to (that person) any information and documentation that may be relevant to my application.

APPENDIX E
ACKNOWLEDGEMENT OF RECEIPT LETTER SAMPLE WORDING

Dear .....

This refers to your application for permanent residence in Canada which was received at this office on (date).

Processing Time

Applications for permanent residence in Canada in the immigrant category that you have applied to require on average ..... months to process at this office. If you have not received any instructions from this office by (date), you are requested to contact this office directly. You will be notified of the appointment for your interview, if required, approximately ..... months prior to the date of the interview, and you will be provided with further instructions at that time. If you have not received notification of your interview appointment by (date), please contact this office directly.

Interview

Section 9(2) of the Immigration Act requires a visa officer to assess an application for permanent residence in Canada for the purpose of determining whether the person who is applying, and all his or her accompanying dependents, appear to be persons who may be granted entry into Canada. To make this assessment, a personal interview is frequently required. Regulation 22.1(1) of the *Immigration Regulations*, 1978 sets out that a visa officer may require an applicant for an immigrant visa, and the dependents of the applicant, if any, be interviewed for the purpose of assessing the application. Regulation 22.1(3)(a) requires the interview to take place at the visa office where the application was submitted.

If the applicant appears for the interview without all the dependents as required by the visa officer, then the required assessment cannot be completed. This means that the applicant would be found to be inadmissible to Canada as an immigrant by virtue of the fact that he or she is unable to comply with all the requirements of the *Immigration Act and the regulations*, following section 19(2)(d) of the *Immigration Act.*

Interpreters

Interpreters must be arranged in advance for any family members who will be interviewed and who are unable to communicate well in either of Canada's Official Languages of English or French. Instructions for the provision of interpreters will be provided to you prior to your interview appointment.

Non-resident Applications

If you or any of your accompanying dependents are not normally resident in the area of responsibility of this office, then you should be aware that there may be additional delay in the processing of your application for permanent residence in Canada. This delay will result from the need to refer your case to the Canadian Immigration office which is responsible for the country in which you or your dependents normally reside. This referral is necessary to verify any information that you have provided with your application, or for advice concerning qualifications or other matters of a local concern that should be taken into account when assessing your application.

I trust that this information concerning your application for permanent residence in Canada is helpful. Thank you for your interest in Canada.

APPENDIX F
DNA LABORATORIES

LABORATORIES ACCREDITTED BY THE STANDARDS COUNCIL OF CANADA FOR DNA TESTING

MAXXAM ANALYTICS INC.

335 Laird Road, Unit 4

Guelph, Ontario

N1H 6J3

Applicants, their sponsors and representatives ***anywhere in Canada*** can request testing kits by:

- calling the national Toll Free number: 1-877-706-7678

or

- visiting the multi-lingual website at www.thednalab.com

OTHER LABORATORIES THAT HAVE PROVIDED RESULTS TO CIC ON BEHALF OF CLIENTS:

HELIX BIOTECH LTD.

Applicants, their sponsors and representatives can request testing kits from:

In Ontario:	**In Quebec:**	**Elsewhere in Canada:**
1200 Speers Road, Unit 36	5130 rue St. Hubert, #210	215 – 7080 River Road
Oakville, On.	Montreal, Qc	Richmond, B.C.
L6L 2X4	H2J 2Y3	V6X 1X5
Telephone: (905) 842-0671	Telephone: (514) 272-5545	Telephone: (604) 270-7468
Fax: (905) 849-7312	Fax: (514) 272-5622	Fax: (604) 270-8208
Toll Free: 1-800-395-4995	Toll Free: 1-800-565-5405	Toll Free: 1-800-563-4363

SEROLOGICAL SERVICES LIMITED

Applicants, their sponsors and representatives can request testing kits from:

586 Eglinton Avenue East, #202
Toronto, Ont.
M4P 1P2
Telephone: (416) 489-2131
Fax: (416) 489-3285
Toll Free: 1-888-266-7889

IMMIGRATION

Canada

Chapter OP 2
Processing Members of the Family Class



Citizenship and Immigration

Canada

Chapter OP 2

Processing Members of the Family Class



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1 INTRODUCTION

1.1 What this chapter is about

This chapter explains how to process permanent residence applications from members of the family class.

For information on sponsoring close family members see IP 2, *Processing Applications to Sponsor Members of the Family Class.* The following Section 2.2 below and Section 3.3 of IP 2 explain when you may accept a sponsorship abroad.

1.2 Policy intent

The *Immigration Act* lists several policy objectives [A(3)].

Facilitating the reunion in Canada of Canadian citizens and permanent residents with their close relatives is one of them. For this reason, you do not assess the family class against selection factors.

Other objectives toep in mind include:

- ensuring that anyone seeking admission is subject to standards that do not discriminate in a manner inconsistent with the Canadian Charter of Rights and Freedoms; and
- maintaining and protecting the health, safety and good order of Canadian society.

1.3 Who are the members of the family class?

R2(1) defines member of the family class.

It includes:

- the sponsor's spouse who is 16 years and over;
- the sponsor's dependent son or dependent daughter (including an adopted son or daughter);
- the sponsor's father or mother;
- the sponsor's grandfather or grandmother;
- the sponsor's brother, sister, nephew, niece, grand-son or grand-daughter, who is an orphan, unmarried and under 19 years of age;
- the sponsor's fiancé(e);
- any child under 19 years of age whom the sponsor intends to adopt and who is:
  - an orphan,
  - an abandoned child whose parents cannot be identified,
  - a child born outside of marriage and who has been placed with a child welfare authority for adoption,
  - a child whose parents are separated and who has been placed with a child welfare authority for adoption, **or**
  - a child one of whose parents is deceased and who has been placed with a child welfare authority for adoption;
- if the sponsor does not have a spouse, son, daughter, father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew or niece who is a Canadian citizen or a permanent resident, or a relative listed above who may be sponsored, one relative regardless of age or relationship (anyone connected by blood or adoption).

1.4 Summary of sponsorship regulations

Family class applications must be sponsored. You do not apply the selection criteria in R7 to R11 to someone with a family class sponsorship.

The existing sponsorship regulations came into effect on April 1, 1997. Sponsorship applications received until close of business April 18, 1997 can be processed under the pre-April 1, 1997 regulations. See OMs *IP 97-12* and *OP 97-18 - New Family Class Sponsorship Regulations* for transitional details and a comparison between old and new regulations.

Sponsorship requirements are in R5(1) to (7). Definitions for *undertaking*, *sponsor, gross Canadian income* and *payments made or due on account of financial obligations* are in R2(1). R6(1) to R6.1 explain conditions for visa issuance.

1.4.1 Residency requirements

Sponsors must be Canadian citizens or permanent residents, 19 years or older.

People registered as Indians under the *Indian Act* have the same rights and obligations under the *Immigration Act* as Canadian citizens, even if they are not citizens as well. Registered Indians may be sponsors.

Sponsors must be residing exclusively and without interruption in Canada or, if they are residing abroad, be Canadian citizens sponsoring their spouse or unmarried children under 19 without children of their own and returning to Canada to live.

Sponsorship by permanent residents who are subject to an A27(1) report will be held in abeyance until final disposition of the report.

Sponsorships by permanent residents charged with a serious offence will be held in abeyance until a final determination is made on the charges.

Permanent residents under a removal order cannot sponsor.

Permanent residents **and** Canadian citizens in prison cannot sponsor.

1.4.2 Financial requirements

Undischarged bankrupts cannot sponsor (see IP 2, Section 11.3).

Financial requirements, the Low-Income Cut-Offs (LICO) must be met for the 12-month period before the day the Case Processing Centre-Mississauga (CPC-M) receives the signed undertaking IMM 1344A) and the correct fees.

Available income is calculated by deducting financial obligations from gross income.

Income must originate from Canadian sources.

Income may include the spouse's income if the sponsor's financial resources are inadequate. The spouse must co-sign the undertaking.

> ***Note:*** *Spouses who co-sign an undertaking are called "co-signers". The LICO figures for the family unit must be met through the sponsor's and/or co-signer's income only, i.e. other family members cannot pool their resources to help the sponsor meet the income test.*

With one exception, ability to meet LICO is mandatory for sponsors of all applicants. Discretionary approval of financial requirements is not possible.

The only exception to the LICO requirement is for sponsors of spouses and minor children, and only if all their dependent children, whether accompanying or not, are less than 19, unmarried and have no children of their own. If any of these conditions is missing, the financial test applies. For example, if a dependent child of the spouse is 19 years of age or over, the sponsor must meet LICO for the entire family unit.

The applicable LICO is based on the number of people in the sponsor's immediate family (sponsor, spouse and dependent children), the number of relatives under a valid undertaking previously given by the sponsor and co-signer, and the number of persons being sponsored, including non-accompanying dependants. The sponsor's place of residence determines the income level in the LICO chart.

1.4.3 The undertaking

All sponsors, except residents of Quebec, undertake ten year obligations for sponsored immigrants. Sponsors in Quebec may be responsible for shorter or longer periods (see IP 2, Section 14.1.1).

Sponsors (and co-signers) cannot be in default on any previous undertakings, transportation or ROLF loans at the date of giving the undertaking.

Sponsors, co-signers and the sponsored relative must sign an agreement between them that confirms understanding of their mutual obligations and responsibilities.

1.4.4 Co-signers

Married and common-law spouses of the opposite sex can be co-signers; common-law relationships must have existed for one year.

Co-signers must be permanent residents or Canadian citizens at least 19 years of age and physically residing in Canada.

Co-signers cannot be bankrupt, in default of a previous undertaking, in prison, under a removal order, the subject of an A27(1) report, or charged with a serious criminal offence which could lead to their removal.

Co-signers must sign the undertaking and the sponsorship agreement to have their income considered.

Co-signers assume the same obligations as the sponsor for the care and support of the family class applicant and dependants. They also become jointly liable with the sponsor if there is a default on the undertaking.

2 PROCESSING SPONSORSHIPS

This section explains the role of visa officers in processing sponsorships.

2.1 Sponsorship kit

The sponsorship kit for relatives outside of Canada is entitled *Sponsoring a Family Class Relative*. Sponsors obtain it from a Call Centre, from a CIC open to the public or, from the CIC web site.

Visa offices may print kits from the CIC web site for sponsors abroad.

Sponsors, including sponsors abroad, must mail the completed forms to CPC-M, unless they have received alternative instructions from a visa office.

2.2 Overseas sponsorships

Canadian citizens residing exclusively outside Canada may sponsor their spouse or minor children.

Sponsors abroad should keep in mind the kit addresses persons in Canada. Where the kit asks about Canadian income (IMM 1283), sponsors should list their foreign income and financial obligations. This information is required in case of default. It may also help support a refusal under A19(1)(b) in some cases.

Overseas sponsors may submit their application to a visa office if their case is urgent. If it is not, sponsors should apply directly to CPC-M. The time-standard for CPC-M processing is 42 days.

> ***Note:*** *CPC-M will evaluate most requirements of R5(2), but visa officers must first establish sponsors reside exclusively outside Canada and that they will resume residence in Canada.*

Visa offices that process sponsorship applications must ask CPC-M to do a FOSS check. The sponsor may have sponsored before, or co-signed an undertaking. If the sponsor was a permanent resident, there may be an outstanding transportation loan. FOSS checks can also satisfy visa officers' concerns about the sponsor's or applicant's immigration history.

2.2.1 Forwarding original forms to CPC-M

Visa officers must immediately forward the original IMM 1283 - *Application to Sponsor a Member of the Family Class and Undertaking,* IMM 1283 - *Financial Evaluation* and IMM 1344B - *Sponsorship Agreement* to CPC-M.

CPC-M will record the undertaking in FOSS and file away sponsorship forms for use in case of default.

3 PROCESSING APPLICATIONS

3.1 Family class application kit

After processing applications to sponsor, CPC-M instructs Docupost to send sponsors the family class application kit. Docupost uses the address of the sponsored relatives to determine which kit to send. It chooses the kit of the visa office responsible for the country in the applicants' address.

Sponsors are responsible for sending the application kit to their sponsored relatives.

The sponsored relatives in turn must complete and submit the application to the visa office.

Application kits contain an Information Guide, an Application for Permanent Residence in Canada IMM 0008), an Additional Family Information form IMM 5406), and country specific forms or information.

Applicants who submit their applications to a visa office different from the one their kit was tailored for, risk processing delays.

See APPENDIX N, Aide-mémoire for Family Class sponsorship, for step by step description of the process in and outside Canada.

3.2 Who must complete an IMM 0008?

Everyone 18 years of age or over, listed on the undertaking, must complete an IMM 0008. Spouses are not exempt from this requirement.

When a parent sponsors two or more dependent children of any age, there must be separate IMM 0008s for each child (see also Section 3.7).

You may also ask dependants under 18 or not accompanying the principal applicant to complete IMM 0008s to verify identity and relationship or to assist in their examination. If you do, explain that the IMM 0008 is intended to serve as a source of information, and not as an application for permanent residence.

3.3 When does a family class application exist?

A family class application requires receipt of an IMM 1344A, an IMM 0008, and the correct processing fees.

If any of these elements is missing, there is no family class application to process.

3.3.1 Lock-in age of principal applicants or accompanying dependants

The age of under 19 dependent sons or dependent daughters is locked-in on the earlier of the day the visa office receives the IMM 0008, or the day CPC-M receives an IMM 1344A - *Application to sponsor a member of the family class and Undertaking.*

For lock-in to occur on either of these dates, CIC must also receive correct and complete processing fees.

It is very important to date-stamp these forms as soon as they arrive.

See OP 1, *General Processing Guidelines* for more information about the lock-in date.

3.4 Time limit for returning completed IMM 0008

Sponsored relatives, including those destined to Québec, have two years to submit their applications to the visa office. The two-year period begins on the date of CPC-M's sponsorship approval notification letter to the sponsor. This is the same date as the *date signed* on the E-mail notification from CPC-M to the visa office.

Close the files of sponsored relatives who do not submit applications within two years of the *date signed* or agreed upon extensions made in writing.

3.4.1 Closing a file

If applicants do not return IMM 0008s by the deadline, retire their files.

Note: *These cases are not refused. You can refuse a case only if you have an* IMM 1344A *and an* IMM 0008.

Record your action in the case file notes. Do not enter any decision at the T-11 stage. Give the file a retirement date.

Inform the applicant in writing that you have closed the file. Send copies to the sponsor and to CPC-M.

Note: *The CPC will refund the right of landing fee (ROLF) at the sponsor's request.*

The sponsor has no right of appeal because you have not refused a family class application (see A77).

3.5 Time limit for submitting complete information

Sponsored relatives must submit complete information, as described in the kit's information guide, with their applications. If the information they submit is not complete, inform them in writing they have 90 days to provide the missing information. **Inform them as well that failure to provide missing information by the deadline could make them or their children ineligible for selection.**

The 90-day countdown will begin on the date of the written notification.

If they submit the missing information within the 90-day period, the lock-in date for these applications will be the same as if they were complete on initial receipt.

If they submit the missing information after the 90-day period ends, the lock-in date is the receipt date of the missing information.

If these applicants do not respond within the 90-day deadline, you may treat their applications as inactive. Guidelines for finalizing inactive applications are in OP 1, *General Processing Guidelines.*

3.6 Changing immigrant category

Applicants in other immigrant categories may switch to the family class before you finalize their cases.

They must send their receipts for cost recovery and ROLF to their sponsors in Canada. To avoid paying these fees again, the sponsors submit the receipts with their applications to sponsor.

3.7 Creating a family class file

Normally you create only one file for all applicants listed on the same undertaking.

If two or more children are sponsored by a parent in Canada, you should open separate files for each child. They are all applicants in their own right. Any one of them may be inadmissible without making the others inadmissible.

3.7.1 Separate files for children whose parent is inadmissible.

You can also open separate files for children sponsored by one parent and listed on the same undertaking as the other parent. They must be members of the family class on their own. This is appropriate when the other parent is inadmissible, but you wish to issue visas to the children and a Minister's permit to the parent. The children are not inadmissible as well because the other parent cannot be their dependant [see the definition of dependant in R2(1)].

Note: *R6(1)(a) only precludes issuing immigrant visas to an immigrant whose dependants are inadmissible.*

3.8 Pre-screening the application

Check the IMM 0008 to see if:

- it is properly completed and signed by the applicant (see Section 3.8.1 below);
- all requested documents have been submitted with it;
- photographs of the principal applicant and each dependant, whether accompanying or not, with their names and dates of birth printed on the back, have been attached;
- the number of dependants, accompanying or not, coincides with the number of persons listed on the IMM 1344A (see Section 3.8.3 below);
- the sponsor is reportable under A27(1) (see Section 3.8.4 below);
- the applicant is a physician or professional requiring registration or licensing in Canada (see Section 3.8.5 below)
- a background check is necessary (see IC 1, *Security and Criminal Screening of Immigrants*); if yes, proceed immediately with the listing;
- an interview is required (see Section 4.9); if yes, proceed immediately with scheduling;
- the sponsor is a resident of Quebec; if yes, see Section 3.9 for instructions.

3.8.1 Necessity for accurately completed IMM 0008

You need an accurately completed IMM 0008. This form, when signed, will be the basis for your decision.

It is also used by CICs to support A27(1) reports and is part of the record when sponsors appeal refusals.

> ***Note:*** *All* IMM 0008*s must be retained either in paper form or on microfilm for 65 years. See* OP 1 *for details of the Thin File Policy.*

3.8.2 What to do if the applicant is already a permanent resident?

Applicants may have immigrated to Canada before. In these cases, you must determine if they have lost permanent resident status (see OP 8, *Processing Permanent Residents*).

If applicants are still permanent residents, tell them they do not need to apply again. They may apply for a Returning Resident Permit instead.

> ***Note:*** *Some entrepreneurs who cannot meet the terms and conditions of their admission apply for permanent residence a second time, sponsored by their permanent resident spouse. As these applicants probably did not intend to abandon Canada as their place of permanent residence, they are not immigrants. They cannot apply for an immigrant visa.*

3.8.3 What to do if a dependant is added to the IMM 0008 during processing?

CPC-M's E-Mail informing visa offices of the undertaking includes the maximum number of persons for whom the income test is met. Visa officers need not contact CPC-M for a reassessment of the sponsor's financial situation if previously undisclosed **non-accompanying dependants** come to light during processing.

If previously undisclosed dependants are **accompanying dependants**, the visa office must determine if the LICO is still met (based on CPC-M's assessment of the sponsor).

If the LICO is still met, the visa office asks CPC-M to arrange for the sponsor to add the dependant to the undertaking. A processing fee applies to the addition of a dependant. Where a sponsor has given an undertaking to the province of Québec, the case must be referred to MRCI.

Sponsors, co-signers and applicants must also amend their sponsorship agreement. CPC-M will have the sponsor and co-signer add the dependant to their copy of the sponsorship agreement. The visa office will ensure applicants add the dependant to their copy of the sponsorship agreement.

Do not issue immigrant visas until CPC-M confirms the sponsor has added the dependant to the IMM 1344A and IMM 1344B.

3.8.4 What to do if sponsor appears reportable under A27(1)?

Sponsors landed as never-married children sometimes sponsor spouses they married before immigrating. They are reportable under A27(1) for misrepresenting a material fact.

If you have information that a sponsor is reportable for this or other reasons, provide them to CPC-M. The CPC will:

- ensure the sponsor is written up;
- inform the visa office of the name of the CIC responsible for the investigation and deciding on a course of action; and
- ensure the results of the investigation are provided to the visa office.

During the investigation, stop processing the application. Inform the applicant of the reason for the delay.

If such cases are common at your mission, monitor them regularly. Report delays in finalization due to pending A27(1) reports to your geographic desk in the International Region.

You cannot make a final determination on an application for permanent residence if you learn a permanent resident sponsor or co-signer could be the subject of an A27(1) report [R6(3.5)].

3.8.5 Immigrants requiring registration or licensing

Applicants or dependants who are physicians must sign a *Declaration - Medical Practitioner's Registration* (IMM 1456). Other professionals requiring licenses or registration to work in Canada must sign a Declaration - Professional Registration IMM 1455). Ensure the "remarks" section of the Immigrant Visa and Record of Landing (IMM 1000) indicates the applicant signed the IMM 1456 or IMM 1455. In addition, for physicians, insert the special program code OMD (Occupation Medical Doctor) on the IMM 1000 (see IH 2 - *Special Programs*).

3.9 Quebec Cases

The Canada-Quebec Accord recognizes that the province of Quebec is responsible for the assessment of the financial aspects of undertakings on behalf of family class applicants destined to the province of Quebec. Canada is responsible for assessing an applicant's eligibility and admissibility. Only visa officers can issue immigrant visas. They may refuse applicants already accepted by Quebec.

3.9.1 Family class processing - Quebec

The Quebec sponsor submits an IMM 1344A to CPC-M and pays the processing fee.

Quebec sponsors do not complete the IMM 1283 or IMM 1344B.

The CPC determines eligibility to sponsor.

> ***Note:*** *The provincial income test is included in the federal sponsorship kit to allow Quebec sponsors to self-assess their financial situation before applying. They must pay a processing fee to the government of Quebec for processing of their undertaking.*

The CPC sends a copy of the IMM 1344A to the *Service aux garants et aux candidats à l'immigration*, MRCI (*Ministère des Relations avec les Citoyens et de l'Immigration*) in Montreal.

The sponsor submits a *"Formulaire d'engagement"* to MRCI.

MRCI verifies settlement arrangements, when applicable. [R6(3.2) and R6(3.3)]

MRCI informs the sponsor if the *"engagement"* is approved or refused. In approved cases, MRCI sends the sponsor three copies of the *"engagement"*.

One of these copies will bear the notation *Copie conforme - MRCI -* #_____. It will also bear an MRCI stamp, the ministerial decree number and the number of the employee authorized to sign the *"engagement"*.

The sponsor sends the copy bearing the notation, stamp and number to the sponsored applicant. The sponsored applicant attaches it to the application for an immigrant visa.

If the sponsor does not meet federal criteria, the CPC forwards the IMM 1344A to both MRCI and the visa office with a note explaining which federal sponsorship criterion is not met. If the sponsored person submits an application for an immigrant visa, the visa office refuses the case without waiting for MRCI's input.

If the application is refused or withdrawn, or applicants tell you they do not plan to use their visa, send a copy of the refusal letter or file closure letter to MRCI in Canada (not to SIQ). Do not send a copy of the IMM 1000 to MRCI in approved cases.

3.9.2 *Certificat de sélection du Québec (CSQ)* and IMM 1000

Applicants may meet requirements for visa issuance before they have *CSQs*. You may issue their IMM 1000s if at least three months have passed since you received their application for permanent residence and an approved "engagement".

Enter C9999999999 in CAIPS for the *CSQ* number in these cases.

3.9.3 Adoptions - Quebec (see also Section 10)

The *Secrétariat à l'adoption internationale* represents the interests of Quebec adoption authorities abroad.

3.9.4 Appeals - Quebec cases

A sponsor may appeal MRCI's refusal to approve an "engagement". The *Bureau de révision de l'immigration* (BRI) can only allow appeals based on law or facts.

> ***Note:*** *A Quebec sponsor may appeal a refusal of the undertaking to the IAD only on humanitarian and compassionate grounds [A77(3.1)].*

Sponsors may appeal refusals of members of the family class to the Immigration Appeal Division (IAD) of the Immigrant and Refugee Board (IRB). The appeal can be based on facts, law or equity.

3.10 Processing goals - General

Applications for permanent residence by members of the family class, except for parents and grandparents, have the highest priority. These are operational, not regulatory, priorities.

3.10.1 Processing goals - Spouses

Routine cases of spouses should be processed within six months. The target is to process 80% of spousal cases within six months.

The six-month period begins when a mission has an IMM 0008, evidence of an approved IMM 1344A and payment of cost recovery fees.

Maintain a BF system to review files during the six-month target period. At the end of six months determine if the case is non-routine or if it can be finalized.

3.10.2 Fiancés

Some fiancés marry after processing starts. When you have proof of marriage, change the immigrant category code to FC1. The six months processing commitment for routine cases applies from the date you change the category code.

3.10.3 What is a non-routine spousal case?

The following are non-routine cases:

- refusals;
- medical, security or criminal problems;
- suspected marriage of convenience;
- misrepresentation of marital status at time of marriage;
- previous deportation;
- inability to support self and dependants due to legal obligations or other reasons;
- relationship of dependant or dependants to principal applicant in doubt;
- marital status of dependant suspect.

The following would frequently, but not necessarily, be non-routine cases:

- legal validity of foreign marriage in question (marriage which occurred in country other than in processing mission's area of responsibility);
- custody of children of applicant under age of 16 unclear;
- residence status of sponsor in doubt;
- delays created by applicant not following instructions;
- communications not received by mission or by applicant (unreliable postal system, mission not informed of change of address);
- Dependants and principal applicant residing in different countries and processing coordination difficulties occur;
- applicant previously excluded from Canada.

While not exhaustive, this list provides some background to types of cases where processing could legitimately exceed the six months time frame.

4 ASSESSING THE APPLICATION - GENERAL

4.1 Examining the applicant and dependants

You must be satisfied applicants and their dependants, whether accompanying or not, are not described in A19 and otherwise meet all requirements of the Act and Regulations [R6(1)(a)].

Non-accompanying dependants must pass medical examinations. They must also prove they are not inadmissible for criminal or security reasons. Where settlement arrangements are applicable, sponsors must show they could support non-accompanying dependants.

> ***Note:*** *Non-accompanying dependants need not be in possession of a passport or satisfactory travel document.*

4.1.1 Why examine non-accompanying dependants?

Applicants could declare as "non-accompanying" all dependants they know, or suspect, are inadmissible under A19. Once landed, they could sponsor their previously non-accompanying dependants. They could also argue at the IAD that these dependants should be allowed to come to Canada.

4.1.2 Consequences of not presenting all dependants for examination

Permanent residents who did not present all their dependants for examination are reportable under A27(1)(e). They may be removed from Canada.

4.1.3 Exceptions to R6(1)(a)

There are two exceptions to R6(1)(a).

You are not required to examine a dependant who is:

- the spouse of the applicant where on the basis of written evidence, you are satisfied that the spouse is separated from and no longer living with the applicant [R6(5)(a)(i)],

  > ***Note:*** *The exception applies only to spouses whose marriage has broken down. Spouses not living together for reasons other than a marital breakdown are not exempt from examination.*

Recent separations should be viewed with caution. Applicants sometimes claim marital breakdown to exempt a spouse from examination only to reconcile shortly after the applicant has been landed in Canada.

The expression "written evidence" normally means evidence of a legal separation or a letter from a lawyer showing that divorce proceedings are underway. However, you may also accept any document, including statutory declarations showing details of the separation, provided you are satisfied that the applicant and spouse are actually separated.

- a son or daughter of the applicant, or of the spouse of that applicant, where you are satisfied that custody or guardianship of the son or daughter has been legally vested in the separated spouse of the applicant or a former spouse of the applicant [R6(5)(a)(ii)].

  > ***Note:*** *"Legally vested" has the meaning given to that term by the laws of the country where the child lives. It normally means that there is a custody or guardianship order. In some countries custody of a child is vested in a particular parent according to sex; a custody order is not required. When in doubt, ask applicants for information on local custody and guardianship laws.*

Applicants who have the intention of later sponsoring a child who is presently in the custody of a former spouse should have the child medically examined.

You may not issue an immigrant visa to separated spouses or children in the other parent's custody even if they are examined [(R6(5)(b)].

Dependants who are exempted from examination under R6(5)(a)(i) or (ii) cannot later be sponsored by the person who sought to exclude them from examination in the first place. These unexamined dependants are not members of the family class [R4(2)].

4.1.4 Recording non-accompanying dependants on the IMM 1000

Record names of non-accompanying dependants in the remarks section of the IMM 1000. Indicate whether or not they were examined or exempt under R6(5)(a).

4.2 Family class requirements

Members of the family class and their dependants must meet the following requirements:

- they must have an eligible relative in Canada who meets the requirements for sponsorship;
- they must prove their identity, age and relationship among themselves and to their sponsor [A9(3)];
- the applicant and all dependants must not be described in any of the inadmissible classes of A19; and
- they must have valid and subsisting passports or travel documents [R14(1)].

These requirements are discussed in more detail below.

4.3 The undertaking - role of CPC-M

CPC staff review sponsorship forms and supporting documents to verify that:

- The correct cost recovery fee is included.
- Forms are complete and signed.
- Persons listed on the IMM 1344A appear to be members of the family class.
- Persons on the IMM 1344A fall under the same sub-class of the family class, i.e. principal applicants and dependants only on the same IMM 1344A.

CPC staff determine the sponsor's eligibility to sponsor under R5(2). They also determine co-signers' eligibility to have their income considered.

When they must examine the sponsor's financial situation, they use Statistics Canada Low Income Cut-Off (LICO) figures. They compare the sponsor's income in the 12-month period before the receipt of the signed undertaking (IMM 1344A) and the correct fees to the applicable LICO. Relative to the LICO, they determine if the sponsor has *Met* or *Not Met* the income requirement as well as other relevant factors.

4.3.1 R5(2)(f) and (g) must be met at the date of giving the undertaking

The income requirement [R5(2)(f)] and the requirement to not be in default of a previous undertaking, ROLF or transportation loan [(R5(2)(g)] cannot be changed to *Met* after processing begins. The wording of these regulations state they must be met *at the date of giving the undertaking.*

In order to meet R5(2)(f) or R5(2)(g) after a negative CPC-M determination, sponsors must reapply and pay fees again. Kits clearly inform clients that once a decision is made on these requirements, the matter is closed.

4.3.2 Changes in the sponsor's circumstances

Visa officers may issue immigrant visas only if all requirements of R5(2) are met [see R6(1)(b)]. Except for R5(2)(f) and R5(2)(g), CPC-M simply makes on initial determina-

tion of sponsor's ability to meet the requirements of R5(2). Visa officers determine whether or not a sponsor is authorized or not authorized to sponsor.

Some sponsors who failed to meet R5(2) requirements, other than R5(2)(f) and R5(2)(g), when CPC-M made the initial assessment, will meet them before visa issuance, e.g. a bankrupt sponsor is discharged during the processing period, a sponsor is released from prison, or a correction is made to the size of the family unit used to select the applicable LICO.

Conversely, some sponsors may no longer meet these requirements after CPC-M's assessment. CPC-M will inform visa offices when sponsor's circumstances could change in any way that might affect their ability to meet any of the requirements of R5(2). When visa officers have reason to believe reassessment of the sponsor is material to the visa decision, they can ask CPC-M to inverstigate further.

4.3.3 What information will the CPC provide?

CPC-M will indicate whether or not the financial test is met.

CPC-M will also tell you how many people the sponsor can support. This number does not include people in Canada. It may also be larger than the number of persons on the IMM 1344A.

> ***Note:*** *Family size may decrease or increase after CPC-M makes its initial assessment. The change can affect the LICO a sponsor must meet. CPC-M's E-Mail informing visa offices of the undertaking includes the maximum number of persons for whom the income test is met. You need only compare family size prior to visa issuance with this maximum number. If it is equal to or less than this maximum number, the financial requirement is met.*

If the financial test is not met, or the sponsor is on welfare, CPC staff will send you a copy of the work in progress (WIP) transcript and a detailed explanation why the application to sponsor is Not Met. CPC-M will also send you the Financial Evaluation (IMM 1283). It details a sponsor's financial situation. It will help you document your refusal under A77(1)(b) for inability to meet R5(2)(f).

CPC staff do not verify relationships.

4.3.4 Reassessing the financial test

Visa officers may ask CPC-M to reassess sponsors' income. R6(1)(b.1) allows reassessment if it no longer appears to meet the requirement of R5(2)(f). The new calculation is based on the 12-month period before the date you request reassessment.

> ***Note:*** *The reassessment can be done only when the applicant has met all other requirements. Income may fluctuate during the processing period. One common point of review after other requirements are met ensures consistent treatment of sponsors.*

If the IMM 1344A predates April 1, 1994, contact CIC Mississauga for Metro Toronto cases. If sponsors live elsewhere in Canada, contact the CIC where they applied to sponsor.

Post-April 1, 1994, sponsorships are handled exclusively by CPC-M.

4.4 Establishing identity and relationship

All applicants must prove their identity.

Members of the family class must also prove their relationship to their sponsor.

The onus is on applicants to provide evidence of their identity and relationships [A8(1)].

They must also answer your questions truthfully and provide the documents you need to establish that they are not inadmissible [A9(3)].

4.4.1 Acceptable identity and relationship documents

Clients can establish their identity and relationships with birth or baptismal records and marriage certificates.

When birth/marriage documents are unreliable, they may use other types of official records. These can include voter's registration lists, military records, old passports, income tax forms, school records, household registries, hospital records, identity cards and old immigration records.

Self-serving statutory declarations have less weight unless they predate interest in immigration.

As a last resort you may consider notarized letters from reliable bank officers, religious leaders, police authorities or civic and other government officials as an **indication** that the relationship exists.

4.4.2 Assessing documents

Any document on its own may fail to establish identity or relationship. Documents should be consistent one with the other and weighed according to their reliability and relevance. For example, one household registry on its own may not be reliable. You may need to corroborate it with several earlier registries for the same household, or hospital birth records and national identity cards.

Be suspicious of documents issued to replace lost or stolen documents or identity cards. Look closely at identity or relationship documents which post-date interest in immigration.

It may help to compare documents with those provided by other members of the same family or against old immigration files for the same family.

When in doubt, you may consult:

- the visa office that processed the sponsor's application; or
- the visa office responsible for the applicant's country of citizenship; or
- the issuing agency of the document.

Where relationship cannot be established through normal channels, you may suggest that applicants undergo DNA testing (see Section below and OP 1).

4.4.3 Genetic fingerprinting (DNA)

CIC's policy is to accept the DNA fingerprinting test as valid proof of a parent/child relationship. The test involves the comparison of DNA profiles extracted from blood samples taken from persons claiming to be a natural father, mother or child(ren). If properly conducted, the test is considered a highly reliable means to certify parentage. This test is commercially available (see OP 1, Section 5, for complete details).

4.5 Medical requirements

Members of the family class are inadmissible if they or their dependants are likely to be a danger to public health or to public safety [A19(1)(a)(i)] or if their admission would cause or might cause excessive demands on health or social services [A19(1)(a)(ii)].

Instructions on having applicants undergo a medical examination are found in OP 14. OP 14 also explains how to interpret medical results to determine if the applicant is medically admissible and the steps to take before informing applicants that they are refused for medical reasons.

4.5.1 What to do in medically inadmissible cases?

When a member of the family class or dependant is found to be inadmissible for medical reasons, and no new information is provided (see the procedure described in OP 14), you *may* consider whether there are grounds for issuing a Minister's permit to

allow the person to enter and remain in Canada notwithstanding the medical inadmissibility.

See OP 19 for the factors to consider before recommending a Minister's permit.

4.6 Criminal and security requirements

Members of the family class and dependants must be admissible to Canada under all Sections of A19 relating to criminality and security concerns.

Normally you will establish their admissibility through the applicant's police certificate and background reports and assessments.

For more information on determining admissibility under criminal and security grounds, see IC 1, *Security and Criminal Screening of Immigrants*, and OP 17.

4.6.1 What to do in criminal or security cases?

Before you refuse a member of the family class on criminal or security grounds, you **may** consider whether there are grounds for issuing a Minister's permit to allow the person to enter and remain in Canada notwithstanding the criminal inadmissibility.

See OP 19 for the factors to consider before recommending a Minister's permit.

The sponsor has no right of appeal if the refusal was under A19(1)(c), (c.1), (c.2) or (d) and the Minister is of the opinion that the person constitutes a danger to the public [A77(3.01)(b)].

A77(3.01) eliminates sponsor's appeal rights if:

- the applicant is named in an A40.1(1) certificate and that certificate has been found reasonable by the Federal Court Trial Division; or
- the Minister thinks applicants described in A19(1)(c), (c.1), (c.2) or (d) are a danger to the public.

a) Security certificates

A40.1(1) certificates are appropriate when you use information in unreleasable security or criminal intelligence reports to determine inadmissibility. The information must reliably indicate the applicant falls into A19(1)(c.1)(ii), (c.2), (d), (e), (f), (g), (j), (k) or (l), or A19(2)(a.1)(ii).

Before refusing this type of case, contact Case Management for guidance.

b) Minister's opinions

You should seek the Minister's opinion of danger to the public if applicants have caused, or might reasonably be expected to cause, death or serious physical or psychological harm to persons or significant damage to property. Their offences involve violence, weapons, narcotics trafficking, or sexual abuse. A list of equivalent offences in Canada is provided in APPENDIX B.

You must consider more than just the fact of the offence(s). You must also analyze applicants past behaviour, the nature and circumstances of the offence, as well as any sentence.

By their past behaviour repeat offenders and recidivists make themselves good candidates for a Minister's opinions.

Details of sentences are especially useful. If courts impose fines with little or no time in prison, your expectation of danger to the public might be lower. Keep in mind though, sometimes convictions and sentences are the result of plea bargaining. You may have to give more weight to the nature and circumstances of the actual offence than the sentence, to form an accurate view of the danger to the public.

To get an opinion, you must make a recommendation to the Director General, Case Management Branch.

Before submitting a recommendation, you must inform the sponsor in writing, of its foundation and effect (see sample letter in APPENDIX C). Sponsors have thirty days from the day they receive the letter, to provide information about the applicant's dangerousness. They may also provide humanitarian and compassionate arguments. You review and comment, if appropriate, on sponsors' responses before appending them to your recommendation.

If Case Management Branch approves the recommendation, you provide sponsors with a copy of the decision.

After going through these steps, you can refuse applications for an immigrant visa.

4.7 Ineligible dependants

Ineligible dependants claim to be dependants of a member of the family class, but cannot satisfy you they are dependants.

Examples: *dependants who are over 19 at the time of application who cannot satisfy you that they are full-time students, or children whose adoption is one of convenience*

You may not refuse an application because the alleged dependant of a member of the family class is not a dependant.

Where a dependant is ineligible, issue immigrant visas to the applicant and eligible dependants. Do not issue visas to the ineligible person.

The sponsor has no right of appeal to the IAD since there has been no family class refusal. The applicant or ineligible dependant (not the sponsor) may seek redress from the Federal Court.

4.7.1 What to do if a dependant is ineligible?

If you determine that dependants are ineligible:

- tell principal applicants you cannot issue visas to the ineligible dependants because you are not satisfied they are dependants as defined in R2(1);
- give the applicants a deadline for providing additional information about the ineligible dependants;
- if by the deadline you still think the dependants are ineligible, send a letter explaining why you cannot give them visas with the visas for the eligible members of the family;
- send a copy of this letter to sponsors and explain that they cannot appeal since there has been no refusal;
- counsel the sponsor to ask the CPC to refund the ROLF for the ineligible dependants;
- if the sponsor appeals, Appeals Officers will file a motion of non-jurisdiction with the IAD;
- at the request of Appeals Officers, forward the file and statutory declaration explaining why visas were not issued to ineligible dependants.

4.8 Passport requirements

See OP 15 for details about this requirement.

Only refugees are exempt from the passport requirement [R14(2)]. You may nevertheless come across family class applicants in refugeelike situations who cannot obtain passports. Counsel these applicants to obtain ICRC travel documents.

Program managers can exempt applicants from this requirement for humanitarian and compassionate grounds (R2.1). This option is practical only for persons who do not have to board an airplane to travel to Canada.

Diplomatic, official and similar passports are not acceptable for immigration purposes. PRC Public Affairs passports are also not recognized for immigration purposes.

Item 3 of Schedule VII specifies unacceptable passports, identity or travel documents [R14(5)]. They include documents issued by the All Palestine Government. Do not confuse these documents with those issued by the Palestinian Authority. The latter are valid for immigration purposes under item 2 of Schedule VII.

4.9 Interviews

You should interview applicants and their dependants only when it is essential to assess their application [R22(1)].

Interviews can help confirm applicants' identities and relationship to sponsors or other family members. Interviews may also clarify your questions about applicants' admissibility.

You may conduct interviews at the visa office or any other appropriate location.

4.9.1 Interviewing spouses

Waive interviews of spouses wherever possible.

Request only documents necessary for the selection decision.

Focus interviews only on information essential for the decision.

If an interview is for a particular reason, e.g. security screening, do not review other aspects of the case unless information calling into question other aspects is received.

4.10 Procedural fairness

Please see OP 1 for details.

Note: *You do not have to provide applicants with an opportunity to clarify possible misunderstandings if the reason for refusal is evident and requires no additional clarification, e.g. the person told you he had a criminal conviction and you are refusing on that basis.*

Note: *The Federal Court has ruled that you do not have to inform applicants of your concerns prior to an interview.*

Note: *The onus under A8 is on applicants to satisfy you. An applicant who is aware that an issue is potentially a source of concern should be prepared to deal with it at interview, without special notice.*

5 SPOUSES

5.1 What is a spouse?

Spouses are persons of opposite sex joined in marriage.

Marriage is legal matrimony in the country where the spouses got married. R2(1) specifically excludes matrimony in which one of the parties became at any given time the spouse of more than one living person.

Spouses may be principal applicants or dependants.

Spouses are not members of the family class if they married primarily to gain admission to Canada as a member of the family class without intending to reside permanently with the other spouse [R4(3)].

Spouses are not members of the family class [R4(3.1)], nor can they be considered as an "accompanying dependant" [R2(1)], if they are less than 16 years of age.

5.2 Marital status

5.2.1 Recognition of marriage

A marriage legally recognized where it occurs is most of the time recognized in Canada. A9(3) puts the onus on applicants to prove their marriage is legal where it took place.

Previously married applicants must be legally divorced before they can remarry. In addition to proving their marriage is legal, they must prove their divorce was legal.

Polygamous marriages are legal in many countries, but they are excluded from the definition of marriage in R2(1).

When you doubt a marriage or divorce was legal, consult the visa office responsible for the country where it took place. Provide that office with all available documents.

If another visa office cannot resolve your doubts, you may refer the matter to NHQ Selection Branch who will obtain an opinion from Legal Services.

5.2.2 Does a marriage exist?

You should be familiar with the basic requirements for legal marriage in your territory of responsibility. This includes knowing:

- the minimum age for marriage;
- prohibited degrees of consanguinity;
- how freedom to marry is established;
- residency requirements;
- the prescribed form for marriage; and
- any other requirements, such as a license or parental consent.

For sponsored spouses, you must consider if the applicant married for immigration purposes without intending to live permanently with the sponsor [R4(3)].

5.3 Are the parties free to marry?

The most common impediment to marriage is a previous marriage which has not been dissolved. Marriages are dissolved through death of one of the parties, divorce and annulment of a marriage.

5.4 Death of a spouse

Obtain the death certificate or other proof of the previous spouse's death. Ensure the certificate is a genuine document.

5.5 Legality of foreign divorces

You may need to look closely at foreign divorces to determine if applicants or sponsors were, or are, free to marry again.

The fact a marriage license has been issued or that a couple has remarried is not proof a divorce was legal where it occurred.

A foreign divorce is without effect if it was obtained by fraud or by denial of natural justice.

Generally for a **foreign** divorce to be legal in Canada:

- the parties must ordinarily reside in the foreign jurisdiction for one year before applying for a divorce; or
- the petitioner must have had a "real and substantial connection" to the foreign jurisdiction for the one-year period before divorce proceedings began (see section below).

Canadian courts turn to the *Divorce Act, 1985* when they decide the marital status of persons divorced abroad. This Act has two specific provisions for the recognition of foreign divorces.

The first applies to divorces granted after February 13, 1986. Canada recognizes these divorces if either spouse was ordinarily resident in the foreign jurisdiction for one year preceding the application for that divorce.

The second provision covers divorces granted between July 1, 1968 and February 13, 1986. They are valid in Canada if the wife was domiciled in the jurisdiction that granted them. Seek advice from Legal Services about the meaning of "domicile" if necessary.

These provisions do not limit or restrict existing rules of law about recognition of foreign divorces. The *Divorce Act* also incorporates statutory and common law rules respecting recognition of foreign divorces. An important common law rule is the "real and substantial connection." See the section below for examples of "real and substantial connection."

5.5.1 Examples of real and substantial connections

Example 1: An individual marries abroad, immigrates to Canada and resides here while the spouse remains abroad.

In these circumstances, if the Canadian resident obtains a divorce where the spouse lives, the divorce would be recognized by Canadian law. The real and substantial connection here is found in the domicile of the spouse in the country which grants the divorce.

Example 2: Both spouses become permanent residents in Canada, then one spouse takes up permanent residence in another country.

If the Canadian resident goes to the country where the other spouse now lives to obtain a divorce, it would be valid. The real and substantial connection is again the spouse's domicile in the country which grants the divorce.

Example 3: Neither party to the divorce was resident or domiciled in the country which grants the divorce.

The divorce is not recognized under Canadian law, and a subsequent marriage is null. Similarly, if both parties continue to reside in Canada and obtain a "mail order" divorce in a foreign country, the divorce is not recognized in Canada.

5.5.2 Other important common law rules

Canadian courts will recognize foreign divorces when:

a) they are issued from a domiciliary court;

b) they are issued from a non-domiciliary court where the decree is recognized by the law of domicile of the parties;

Example: A party with a real and substantial connection to California obtains a divorce in Nevada. If California recognizes the Nevada divorce, it is valid in Canada.

c) either party had a real and substantial connection with the foreign jurisdiction;

d) the foreign Court assumes jurisdiction on a basis corresponding to that of Canada.

5.6 Annulment

Annulment is quite distinct from divorce. Unlike divorce, an annulment means the marriage never existed.

Grounds for annulment in Canada include bigamy, prohibited degrees of consanguinity or affinity, incapacity, non compliance with statutory established procedures, errors in identity, and duress. If any of these factors were present when the marriage was celebrated, it may be annulled.

5.7 Marriage in Canada

5.7.1 Provincial and federal jurisdiction

The federal and provincial governments share powers with respect to marriage (and divorce). The federal government has broad legislative responsibility for marriage.The provinces are responsible for laws about the solemnization of marriage.

5.7.2 Requirements for marriage

All provincial and territorial Marriage Acts:

- provide for religious and civil marriage ceremonies;
- include lists of prohibited degrees of consanguinity or affinity;
- require witnesses to a marriage ceremony;
- identify officials or individuals authorized to solemnize a marriage; and
- set minimum age requirements for marriage.

Some provinces require a medical examination.

5.7.3 Minimum age for marriage

Persons below certain ages cannot get married in Canada without parental consent.

The minimum age for marriage without consent varies between provinces. It is:

- 19 in British Columbia, Newfoundland, Nova Scotia, the Northwest Territories, and Yukon.
- 18 in Alberta, Manitoba, New Brunswick, Ontario, Prince-Edward Island, Quebec, and Saskatchewan.

5.7.4 Degrees of consanguinity

In order to contract a valid marriage, a person must have the "capacity" to do so. An element of capacity is consanguinity.

The federal *Marriage (Prohibited Degrees) Act* prohibits marriage between persons related lineally by consanguinity or adoption, and between siblings, whether brother

and sister by whole blood (same parents), half-blood (one common parent) or by adoption.

The following relations, whether by consanguinity or adoption, fall within the prohibited degrees of marriage. Applicants may not marry, in Canada, their:

- grandfather/grandmother;
- father/mother;
- brother/sister;
- half-brother/half-sister;
- son/daughter;
- grandson/granddaughter;
- other lineal relatives, such as great-grandparents/great-grandchildren.

5.8 Types of marriage and relationships

There are different types of marriages or relationships. They are not all valid for immigration purposes.

Proxy marriage: At a proxy marriage one of the participants is not present and has named a proxy to represent him or her. If the law of the country in which the marriage ceremony was performed permits proxy marriages, they are legal marriages.

A marriage in which one party participates by phone in the ceremony without a proxy is not a proxy marriage. Such a marriage would not be a legal marriage because the jurisdiction of the marriage would be unclear.

Tribal marriage: Tribal marriages, or customary marriages carried out according to tribal custom, are valid for immigration purposes if they are legal where they occur. Tribal marriages are normally unrecorded.

Arranged marriage: These marriages are usually arranged by family members or a marriage broker. The participants may not have met before the marriage, but will be familiar with each other's background. Such marriages are recognized for immigration purposes.

Technically illegal marriages: Some marriages may not be legal where they occurred, because of a local technicality. If the relationship between sponsor and applicant is genuine and they are able and willing to marry in Canada, you may change the immigrant category code. The FC1 spouse can become an FC2 fiance(e). Before changing categories, ask CPC-M to assess settlement arrangements.

Polygamous marriages: Polygamous marriages occur when one of the participants has several spouses. The R2(1) definition of marriage excludes these marriages. Sponsors and applicants cannot be married to more than one person at the same time.

Common-law relationships: Participants in common-law relationships are not spouses for immigration purposes. They cannot comply with the R2(1) definition of spouse because they are not married. See OP 1, Section 4.2.2 for special procedures for common-law partners.

Same-sex relationships: Participants in same-sex relationships are not spouses for immigration purposes. The R2(1) definition of spouse requires parties to a marriage to be of opposite sexes. Even if marriages between people of the same sex are legal in some jurisdictions, the parties cannot satisfy the definition of spouse. See OP 1, Section 4.2.2, section for special procedures for same-sex partners.

Persons who have undergone a sex-change: *Under review. Please contact NHQ/ Selection Branch (SSG) for guidelines if necessary.*

Marriage of convenience: A *marriage of convenience* is a legal marriage entered into for immigration purposes and without the intention of living permanently with the other spouse. Spouses in a *marriage of convenience* are not members of the family class (see R4(3) and the guidelines below).

5.9 Marriage of convenience

You can refuse immigrant visas to applicants, who you have reason to believe, married their sponsors to benefit from processing as a member of the family class and not to live permanently with them. These applicants are not members of the family class [R4(3)].

If you believe a relationship is not genuine, you must have evidence to support your belief. The sponsor may appeal your refusal to the Immigration Appeal Division (IAD).

If there is no documentary evidence, you must clearly explain in a statutory declaration why you believe the relationship is one of convenience. Such declarations do carry weight with the IAD as they adhere to the common rule of evidence.

5.9.1 Identifying a marriage of convenience

Differences in age, race, religion or culture and a history of divorce may suggest a marriage of convenience, but you may not refuse on one of these factors alone.

You must form your opinion on factors which, taken together, could make a reasonably prudent person conclude the marriage was entered into for immigration purposes.

Other factors to consider:

- The circumstances and duration of the courtship.
- The wedding itself (where it was celebrated, what type of marriage, who attended).
- Did the marriage ceremony conform to the beliefs and culture of the participants?
- Is there evidence the spouses have lived together?
- The Canadian immigration status of the applicant at the time of the marriage.

Old immigration files can provide clues as to whether a relationship is genuine. They may contain evidence the parties are related to a degree which precludes marriage.

You may need to examine closely evidence that a marriage took place. Photographs can be altered and marriage certificates may be fraudulent.

If you suspect a marriage of convenience, try to interview the spouses separately to identify discrepancies.

> ***Note:*** *CPC-M can arrange an interview with the sponsor, but you must provide specific questions you wish the sponsor to answer.*

Be fair to the applicants. Inform them of your doubts and give them a chance to allay them.

Record all your questions and the answers provided by the applicant and sponsor in the case notes.

6 DEPENDENT CHILDREN

6.1 Definition of dependent children

Dependent sons and dependent daughters of sponsors are "members of the family class."

They are also included in the general definition of "dependant" [R2(1)].

> ***Note:*** *This definition includes dependent children of principal applicants, as well as their spouses' dependent children and the dependent sons and daughters of the dependent children themselves [R2(1)].*

"Dependant" in the context of settlement arrangements, refers only to unmarried children under 19. Sponsors are exempt from settlement arrangements only if the dependent son or daughter is under 19 and unmarried.

Applicants in any immigrant category may include dependent children on their applications for permanent residence [A9(1.1)].

If dependent children have visas to either accompany or follow principal applicants to Canada, they are **accompanying dependants** [R2(1)]. They cannot precede principal applicants to Canada.

6.2 Who qualifies as a dependent son or daughter?

Regulations describing dependent sons and dependent daughters apply to applications sponsored on or after March 27, 1992. For further information on applications sponsored prior to March 27, 1992, see OM IS 92-04, *Dependent Children.* OM IS 366, *Never-Married Sons and Daughters over 21*, explains the J88 regulations in effect between July 8, 1988, and March 26, 1992.

To qualify as a dependent son or dependent daughter under the March 27, 1992 regulation, children must meet any of the following requirements:

- Under 19 and unmarried on the date the IMM 0008 or IMM 1344A. are received, and still unmarried when the visa is issued (and when they arrive in Canada.
- Sons and daughters can be over 19 when the visa is issued. They do not have to be full-time students to remain dependent children.
- Children of any age or marital status may also qualify if they are financially supported by their parents for one of the following reasons:
- They are enrolled as full-time students in an educational institution since attaining 19 years of age (or on the date of their marriage if they married before the age of 19) and still enrolled when the application is received and when the visa is issued. Financial support must date from the year they attained the age of 19 (or since marriage if the child married before the age of 19).

  > ***Note:*** *Students who interrupt their full-time studies continue to be considered dependants provided that the total absence from studies does not exceed one year [R2(7)].*

- They cannot support themselves because of a physical or mental disability.

  > ***Note:*** *They must be both supported by their parents and unable to support themselves.* Adopted children may also be dependent sons and dependent daughters provided they meet additional requirements. See Section 10.

6.2.1 Transition period for children sponsored before March 27, 1992

If the undertaking precedes March 27, 1992, process the case under the J88 regulations in effect between July 8, 1988, and March 26, 1992.

The following transitional regulation between the J88 and M92 regulations is not part of the consolidated text of IL 2, *Immigration Regulations*. It is nevertheless in effect until repealed:

"The *Immigration Regulations, 1978*, as they read immediately before the coming into force of these amendments, shall continue to apply in respect of any member of the family class where, before the date of the coming into force of these amendments,

a) a sponsor residing in Quebec has submitted an IMM 1344A. on behalf of the person to the Minister; or

b) any other sponsor has given an undertaking to the Minister".

6.2.2 When do requirements have to be met?

At visa issuance children must be unmarried (if they qualified as unmarried children under 19) or be full-time students (their marital status is irrelevant provided they are supported by their parents).

The regulation is silent about when children who qualify because of a mental or physical disability must meet this requirement. Disability is established by a medical examination. Medical examinations normally occur just prior to visa issuance. The chance of a disability vanishing between the medical examination and visa issuance is remote.

6.2.3 Assessing Eligibility at Visa Issuance

Applicants are expected to tell you if any information on their IMM 0008 changes. Where processing times are long, e.g. more than a year, you may wish to reconfirm children are still eligible before issuing visas.

Children under 19 at the time of application may no longer qualify at visa issuance if they have married.

Children who were full-time students may no longer qualify at visa issuance because they have graduated or left school, because their parents no longer support them, or because they have taken a break from studies of more than one year.

Check information provided at the time of application. Full-time students in the second year of a three-year program, may have graduated if processing has taken two years. You should request evidence of full-time student status before issuing visas.

Ineligibility of children who no longer qualify does not prevent you from issuing visas to the principal applicant and other eligible dependants. The ineligible child is no longer a "dependant" and R6(1)(a) does not apply.

You should still explain to the principal applicant why you cannot issue a visa to the ineligible child.

6.2.4 Action at the Port of Entry

Immigrants must still meet the requirements for visa issuance to be admissible when they arrive at the port of entry (R12). Dependent children who did not meet the requirements for visa issuance but neglected to inform the visa officer may be refused admission.

6.3 Explanation of "unmarried and under 19"

The word **unmarried** in the definitions of dependent son and dependent daughter means **not presently married**. Anyone who is single, co-habiting, divorced, widowed or whose marriage has been annulled is **unmarried**.

You may issue visas to children who qualified because they were unmarried and under 19 only if they are still unmarried at the time of visa issuance. These children must also meet all requirements for visas when they arrive at the port-of-entry, including being unmarried (R12).

6.3.1 Age lock-in (see Section 3.3.1 above)

Under 19 means up to and including the last day before the 19th birthday. To lock-in age, the Department must have either an IMM 0008. and correct fees, or an IMM 1344A.7 and correct and complete cost recovery (processing) fees, before the 19th birthday.

Note: *R6(5)(a) states the age requirement must be met when a visa application is received. "Application for a visa" means the* IMM 0008. *To determine the age lock-in date you may also use the date of receipt of the* IMM 1344A. *Legal Services confirms it is reasonable to use this date as well, in view of legal precedents which state lock-in should occur when the immigration process begins.*

6.4 Explanation of full-time student

Part b) of the definitions of dependent daughter and dependent son includes full-time students.

Full-time student in this chapter means a child described in part b) of the definition of dependent son or dependent daughter.

The full definition for dependent daughter appears below. The wording of the dependent son definition is identical except for gender.

Dependent daughter means a daughter who is enrolled and in attendance as a full-time student in an academic, professional or vocational program at a university, college or other educational institution and

(i) has been continuously enrolled and in attendance in such a program since attaining 19 years of age or, if married before 19 years of age, the time of her marriage, and

(ii) is determined by an immigration officer, on the basis of information received by the immigration officer, to be wholly or substantially financially supported by her parents since attaining 19 years of age or, if married before 19 years of age, the time of her marriage.

Here are **Oxford Dictionary** definitions of several key words in this regulation.

- **Enrolled** - Having one's name on a list.
- **Attendance** - The act of attending or being present.
- **Since** - When used as a conjunction, as it is in R2(1), means during or in the time after.
- **Attaining** - Means to arrive at or reach.

Using these definitions, a 19 year old listed on the admission role of a school (enrolled) and present in the school on a full-time basis (in attendance) during the school term in her 19th year falls within part b) of the definition of dependent daughter.

6.4.1 Criteria to be met by Full-time Students

If the answer to all questions listed below is **YES**, a son or daughter is likely a full-time student.

- Is the student **enrolled** in a program given at an **educational institution such as a university, college or other educational institution**?
- Is the student **in attendance** at the educational institution?
- Is attendance **full-time**? Is it the dominant activity in the life of the applicant?
- Is the program of studies followed at this educational institution **academic, professional or vocational**? (See Section 6.4.2 and Section 6.4.3)

- Has the student been **continuously enrolled** in the program **since attaining 19 years of age** (or **since marriage, if married before the age of 19**)?
- Has the student been **continuously in attendance** in the program **since attaining 19 years of age** (or **since marriage, if married before the age of 19**)? (See Section 6.4.6)
- Has the student been **financially supported** by her (his) parents **since attaining 19 years of age** (or **since marriage if married before the age of 19**)?
- In your opinion, is this financial support **total** or **substantial**? (See Section 6.4.5)
- If the student interrupted his (her) program of studies, did this interruption last for **a total (aggregate) period not exceeding one year**? (See Section 6.4.6 for the relevant regulation and explanation.)
- Did the parents **wholly or substantially financially support** the child during the break in studies? (See Section 6.4.6)

6.4.2 Explanation of "educational institution"

Educational institutions vary greatly from country to country. The regulation refers only to those with certain characteristics.

a) Primary Purpose of the Institution

Its primary purpose should be formal education.

Education may be academic. Many university programs do not have a specific career orientation. They provide the knowledge, skills and mental development to allow students to enter the work force or to enrol in programs of advanced studies.

Formal education may also be career specific preparation. Professional university faculties, vocational or technical schools or colleges, and specialized occupational schools offer this type of education.

An educational institution, by definition, implies the existence of a building or buildings devoted primarily to education, training or development. The existence of premises, would, of course, be a factor in assessing the requirement that a student be in attendance.

An enterprise, such as a garage, providing on the job training repairing cars, its primary activity, would not qualify as an educational institution (see section below). Nor would community centres providing general interest or hobby courses, such as cross-country skiing, aerobic dancing or cake decorating. A course like cake decorating would be acceptable if it were part of the curriculum of a cooking school offering career training to chefs.

Ask for evidence of curriculum, examination results, degrees or diplomas and official transcripts to determine if an institution's primary activity is formal education, training or preparation for a career.

b) Curriculum

A formal curriculum usually consists of several courses, which lead to an educational goal. A specific program usually comprises a coherent curriculum of courses for which there may be prerequisites and which lead to a required number of credits.

c) Examination Results

Each course should conclude with a measurement of progress or knowledge acquired, such as an examination, a graded essay, thesis or project. Each student then receives a final mark in each course, which gives the successful student the required credits.

d) Diplomas

A specified number of credits and, in some cases, specific compulsory courses will lead to a diploma or degree. Dependants who are still full-time students are not likely to have diplomas yet. They should still have documentation indicating what degrees or diplomas are normally granted where they study.

e) Transcripts

Genuine institutions can be expected to provide official transcripts. A transcript of the previous year of studies may be evidence of full-time attendance or eligibility to re-enrol at an institution.

f) Must the Institution be licensed?

Not all countries have an authority responsible for licensing educational institutions. Not all educational institutions will be licensed. Provided unlicensed institutions offer career preparation through a formal curriculum, examinations, and granting diplomas, they may be acceptable.

g) Licensed Institutions Accepted at Face Value

You should normally accept a state recognized institution as an **educational institution**.

In countries with licensed schools, you may require evidence of licensing or state recognition.

If you know licensed institutions lack the characteristics of **educational institutions**, ask for primary evidence of these characteristics.

h) Double-Check Unlicensed Institutions

Institutions may be unlicensed because there is no licensing body or because they do not qualify for licenses. In either case, request proof the institution has the characteristics of an **educational institution**.

Proof may be documents concerning the student or the institution. It can include evidence of enrolment, proof of attendance, transcripts, class notes, marked essays, tuition receipts, evidence of a curriculum, calendar, yearbook, etc.

6.4.3 Institutions which are not "educational institutions"

Examples of institutions which are not **educational institutions** under this Regulation include:

- Centres providing on the job training, e.g. in a hairdresser's salon or garage.
- Institutions offering correspondence courses. Their students do not attend an institution.
- Institutions which enrol students only to enable them to qualify as a dependant son or daughter under Canadian *Immigration Regulations*.

Fraudulent Documentation

You cannot always verify each document. Look at documentation in its totality, rather than individually, i.e. proof of parental support, proof of ongoing attendance since age 19, proof of full-time attendance.

Sift information on the application for discrepancies. Is there a long break between school attendance, e.g. did a 16 year old dropout suddenly resume studies just before reaching the age of 19? Did the student attend a recognized school and then enrol in an unlicensed school? What are the cultural norms in the applicant's country? In a society where most children leave school at age 15, it might be unusual for a 19 year old to still attend school. Have younger siblings completed their education by age 15?

If you suspect documentation from a legitimate institution is fraudulent, altered or obtained fraudulently, verify it with the issuing institution or another reliable authority.

If the issuing institution is clearly not an **educational institution**, authenticity may be immaterial. You do not need to cite fraud as the reason an applicant is not a dependent son or daughter. You can rely on proof of the ineligibility of the institution. If you have proof of fraud though, you must cite it as well.

6.4.4 Inform applicants about your doubts

You must give applicants a chance to clear up your doubts. If you think their documents are false or that the schools they attend are not **educational institutions**, tell them why. You may do this during an interview or in writing.

In an interview you can question them about their schools to decide if they are **educational institutions**. Or, if they are enrolled and attending school as full-time students, dependent children should be able to speak knowledgably about their course of studies, their activities at school, teachers, classmates, the physical description of the school, etc.

6.4.5 Financial support for students

- **Wholly or substantially financially supported**

  The definitions of dependent daughter and son require full-time students to be wholly or substantially financially supported by their parents since age 19 or since marriage, if they married before age 19.

- **Explanation wholly or substantially financially supported**

  To understand this part of the definition look at its several elements separately.

  Immigration officers determine if dependent children are financially supported by their parents.

  They make their determination based on **information** they receive.

  The son or daughter must be **wholly or substantially financially supported** by the parents.

  Parents must be supplying financial support **since** their children reached **19 years of age**, or since their children's marriage if they married before 19 years of age.

  Emotional support from parents is not a factor. Their support must be financial.

  Dictionaries define substantially as **considerable in quantity, of real importance or value, and of considerable amount**.

  Students must be genuinely dependent on their parents for financial support.

  Small scholarships or earnings from evening or summer jobs do not disqualify children if they are still financially dependant on their parents.

  Students who pay a substantial part of their tuition, room and board from their own salaries, large student loans or who are financially supported by other relatives, do not satisfy the definition.

  Parents must still be providing financial support when the visa is issued .

- **Procedures for assessing financial support**

  You must be satisfied the child is essentially supported by the parents. The onus is on the applicant to provide whatever proof is necessary to satisfy you.

  As well as proof of support, you need to know the cost of studying at a particular institution and whether the child is living at home or in residence. Applicants must provide this information.

Cancelled cheques in the parent's name for all or most of the tuition or room and board, would normally constitute acceptable proof of financial support. Letters from institutions may be acceptable if they state parents have paid all or most of the tuition or other costs.

Proof of support may be fraudulent or fraudulently obtained. Do the cancelled cheques predate interest in immigration? Are the parents capable of supporting a child at school?

Some institutions may not charge tuition. A 19 year-old may still be attending a publicly funded high school and living at home. In such cases you should rely on evidence that the school does not charge fees. Where a child is clearly a full-time student living at home, you may assume the parents provide room and board.

Please note that if the child married before the age of 19, but is still a full-time student, proof of financial support from parents must date from the time of the marriage.

Do not hesitate to examine closely the degree of financial support provided by parents to their children. Eligibility under this definition is not automatic. It is open only to full time students who are genuinely financially dependent on their parents.

6.4.6 Break in studies

Provided they were students in their 19th year, students may interrupt their studies for an aggregate (total) period not exceeding one year and still qualify as dependants. One year means 12 months as opposed to one school or calendar year.

R2(7) states: "For the purposes of subparagraph (b)(i) of the definitions "dependent son" and "dependent daughter", where a person has interrupted a program of studies for an aggregate period not exceeding one year, the person shall not be considered thereby to have failed to have continuously pursued a program of studies."

- **Explanation of regulation - Break in Studies**

  Students often take breaks from their studies. They continue to depend on their parents for financial support during the break and after they resume studying.

  Students who may interrupt their studies, e.g. to travel, to work part time, for health reasons, etc., are still dependent sons and daughters, provided the total interruption does not exceed 12 months. Their parents must also continue to financially support them wholly or substantially during the break.

- **Calculating the 12-month period**

  School recesses or vacations are not a break from studies if the student continues to be enrolled.

  A break in studies cannot begin until the day school reopens after a recess. This is the earliest time a student can attend school.

  Unless a student returns to school after the recess, enrolment ends the day school resumes. From that day on normal school recesses are part of the one-year period.

  In summary: To qualify students must attend school at any time during their 19th year. You begin calculating a break in studies from the earliest date students can resume school in their 19th year and do not. The allowed period of absence begins to run on the same day for all students regardless of when they turn 19.

- **Military service**

  Children 19 and over who must do military service must also resume studying before the end of the 12-month break in studies. There is no additional time over and above the 12-month break in studies to allow for military service. If they do not resume studying before the end of the 12-month break, you cannot issue visas to

them as accompanying dependants. They are "ineligible dependants" (see Section 4.7 for guidance).

Dependants under 19 when the IMM 0008 or IMM 1344A. are submitted are not subject to R2(7).

You should not delay processing to allow dependants to complete military service. If they cannot follow your instructions while doing military service, consult OP 1, Section 3.3.1 guidelines on inactive files. (You may also consult OP1, Section 21.)

If dependants doing military service cannot use visas before they expire, consult OP 1, Section 16.

6.4.7 Child with a physical or mental disability

Children 19 or more with a mental or physical disability may be sponsored applicants or accompanying dependants. Their disability makes them eligible as dependent sons or daughters.

It may also make them inadmissible. If they are inadmissible you cannot issue visas. They can only come into and remain in Canada with Minister's permits (see OP 19). There have to be humanitarian and compassionate reasons to issue them permits.

Their inadmissibility makes their parents inadmissible as well [R6(1)(a)].

a) Text of definition

Paragraph *c)* of the R2(1) definition of dependent daughter is reproduced below. The wording of the dependent son definition is identical except for gender.

A medically dependent daughter:

is wholly or substantially financially supported by her parents and

(i) is determined by a medical officer to be suffering from a physical or mental disability, and

(ii) is determined by an immigration officer, on the basis of information received by the immigration officer, including information from the medical officer referred to in subparagraph (i) to be incapable of supporting herself by reason of such disability.

b) Assessing dependants with a mental or physical disability

A medical officer must determine if the child **has a mental or physical disability**.

You determine if the child **is wholly or substantially** supported financially by her parents.

Together with the medical officer you determine if the child **is incapable of supporting herself because of the disability**.

c) When should the child undergo a medical examination?

Preferably, the child should have a medical exam before other family members.

Medical officers may need a long time to determine the extent of the disability. The results of other exams could expire before you know if the child is eligible. Delaying exams for the rest of the family could save them money.

You could also ask everyone to be examined at the same time. You may think other family members are also medically inadmissible. Or, you may already know there are humanitarian and compassionate grounds to deal positively with the application.

d) Procedure for requesting a medical examination

Issue a Medical Report for Canadian Immigration IMM 1017 for the applicant with an Activities of Daily Living (ADL) form. Indicate the applicant is a medically dependent son or daughter in the space provided in part A of the IMM 1017.

Include a notice to the Designated Medical Practitioner (DMP) to complete the ADL form.

e) Procedure for determining eligibility of a child with a disability

Using the results of the examination by the DMP, the medical officer will complete a Medical Notification (IMS 1014). It will tell you if the child has a mental or physical disability.

The medical officer will include a narrative description of the disability on the IMS 1014. The narrative is the medical officer's advice about the child's ability to be self-supporting in Canada.

Taking the medical officer's narrative into account, decide if the child is incapable of supporting herself because of a disability. You cannot give other evidence of inability to be self-supporting more weight than the medical officer's report.

If there is evidence of inability to be self-supporting because of a disability, you must determine if the child is wholly or substantially financially supported by her parents.

This may include proof that the child lives at home under the parent's care. Or, if in an institution, that the parents pay for all or some of the child's expenses.

A child may be earning some money, e.g. in a sheltered workshop, but may still be largely dependent on the parents for financial support.

At this stage you should also obtain information to help you decide whether or not to recommend a Minister's permit.

f) Medical inadmissibility

In some cases the child will be medically inadmissible because of the disability. If this happens, follow the instructions in the OP 14 before taking any other action.

Also, review any humanitarian or compassionate reasons to treat the application favourably. Consult OP 19 when you review this aspect of the application.

After these two steps, if you cannot deal positively with the application, you must refuse it. In the refusal letter explain why the applicants are inadmissible. Do not explain why you cannot recommend issuance of a Minister's permit in your letter; instead keep clear and complete case notes.

If you can recommend Minister's permits, make your recommendation according to the instructions in OP 19. Remember, all members of the family require permits.

g) Medically inadmissible child not included as a dependant

Immigrants are required to declare all their dependants on their application for permanent residence. They include sons and daughters with a disability.

These dependants must meet the requirements of the *Act* and *Regulations*, whether or not they are accompanying dependants, before you can issue a visa to any member of the family [R6(1)(a)].

> ***Note:*** *The provision for opting out sons and daughters over 21 years of age was revoked on March 27, 1992.*

Immigrants who do not declare all their dependants are reportable after landing. They will have obtained their visa by concealing information about their admissibility.

You should carefully assess applications from anyone previously refused because of a medically inadmissible dependent child. Unless that child is no longer a dependant, e.g. no longer has a disability or no longer is incapable of self-support, you must refuse the new application.

7 PARENTS AND GRANDPARENTS

Parents and grandparents are members of the family class. There are no specific processing guidelines for them at this time.

8 ORPHANED RELATIVES UNDER 19 AND UNMARRIED

The sponsor's orphaned brother, sister, nephew, niece, grandson or granddaughter under 19 years of age and unmarried are members of the family class.

An orphan is a person whose father and mother are both deceased.

CPC-M will include the following remarks in the E-mail notification (see IP 2, Section 2.3.4):

- *Case processed as an orphan (FC5) based on information received from sponsor. As soon as you determine that it is a genuine FC5 case, please inform CPC-M. CPC-M will request a provincial written statement of no-objection on receipt of this information.*

You must verify the child is an orphan, under 19 on the date CPC-M received the IMM 1344A. with correct and complete cost recovery (processing) fees, unmarried, and related to the sponsor as set out in the regulation.

Once you verify these conditions are met, issue medical instructions. You also ask CPC-M to obtain a written statement of no objection from the child welfare authority of the province of destination (see Section 10.3).

> ***Note:*** *The question of guardianship arises in the case of young immigrants who are not accompanying or are not destined to a legal guardian. Officers must resolve the question of guardianship to the satisfaction of all concerned, whether in Canada or abroad. For the child's protection and well-being, visa officers should counsel sponsors to obtain legal guardianship of the child upon the child's arrival in the province of residence. This will ensure that the sponsor has legal obligations towards the sponsored child.*

8.1 Requests for no-objection/no-involvement letters from the province of destination

For orphan cases, the child welfare authority of the province of destination must state in writing that it has no objection to the proposed arrangement for the reception and care of the orphan [R6(1)(c)(ii)].

Some provinces may issue a letter of "no involvement". This letter is also acceptable for the purposes of R6(1)(c).

Ontario sends a letter of no involvement with attachment of a recommendation on the child's placement from a licensed social worker.

Child welfare authorities in Manitoba and Alberta do not have any jurisdiction or mandate to issue a written statement of no objection in this type of case. For these two provinces, it is not necessary to obtain a no objection letter. Instead, you will instruct the sponsor to apply at the appropriate provincial court for guardianship as soon as the child arrives in the province.

If the applicant is over the age limit for the provincial involvement in child's placement at the time of the request for no objection letter, there is no need to obtain a no objection/no involvement letter (see APPENDIX J).

You will not ask sponsors to obtain the provincial written statement of no-objection. Only CIC can request these statements.

You do not need to request the letter of no objection for Québec cases because the *Ministère des Relations avec les citoyens et de l'Immigration* (MRCI) only approves *"engagements"* for orphans on receipt of a positive recommendation from a *Centre Jeunesse*. The *Centre Jeunesse* does a home study before making a recommendation.

9 FIANCÉES

A sponsor's fiancée is a member of the family class. The term **fiancée**, the feminine spelling of the word, includes the masculine **fiancé** (see R2(1) definition of **fiancée**). In this chapter, the word fiancée refers to the applicant, not the sponsor.

R6(1)(d) imposes three requirements on fiancées and their sponsors.

They must intend to reside together permanently after marriage. Their engagement cannot be primarily for the fiancée to gain admission to Canada as a member of the family class.

They must be free to marry in the province where they will live.

They must agree to marry each other within 90 days after the fiancée uses her visa.

9.1 Engagement not for the purpose of immigration

With "engagements", consider the same factors as for determining the bona fides of marriages (see Section 5.9.1).

> ***Note:*** *Where "engagements" are arranged, sponsors and fiancées may not have met. Arranged "engagements" are not necessarily mala fide.*

Fiancées and their sponsors should be able to prove, not simply avow, their sincere intent to marry and live as spouses.

If you believe they will not marry, or will marry but not live together permanently after marriage, you should refuse the application. You should be able to document your reasons for believing it is an "engagement" of convenience. The IAD may review your decision.

If you do not have documentary evidence to support your decision, provide a statutory declaration outlining your reasons. Such sworn statements carry some weight with the IAD as they adhere to the common rule of evidence.

9.2 Are there legal impediments to marriage in Canada?

You may require evidence that the fiancée and sponsor can obtain a marriage license. Previous marriages or other obstacles to marriage indicate if you should request this evidence.

If either party was married before, determine if they are widowed, divorced or got an annulment.

> ***Note:*** *To marry in Ontario, persons divorced abroad must prove the divorce was legal where it occurred. They must give the marriage license bureau the original divorce papers and an opinion from an Ontario lawyer that the divorce is legal.*

You must also determine if the parties are old enough to marry in Canada and that they are outside prohibited degrees of consanguinity.

9.2.1 Minimum age for marriage in Canada

Persons below certain ages cannot get married in Canada without parental consent.

The minimum age for marriage without consent varies between provinces. It is:

- 19 in British Columbia, Newfoundland, Nova Scotia, the Northwest Territories, and Yukon;
- 18 in Alberta, Manitoba, New Brunswick, Ontario, Prince-Edward Island, Quebec, and Saskatchewan.

9.2.2 Parental Consent - Fiancée less than two years underage

When a party is less than two years under the legal age, provinces will issue licenses if the parents of the underage fiancée give written consent to the marriage.

Underage applicants planning to marry in a Canadian province must obtain parental consent forms. They must ensure their parents complete it properly and submit a copy to you.

Note: *For Ontario, parental consent must be on a prescribed form. A commissioner for oaths, who can be lawyer in the country where the parents live or a visa officer, must witness their signatures.*

9.2.3 Fiancée is two or more years underage to marry in Canada

Consent from parents of applicants more than two years underage is not evidence they are free to marry in Canada.

Fiancées and sponsors in this situation must obtain a marriage license. Suspend processing the application until they submit one. Without a license they cannot marry in Canada and are unable to agree to marry within the 90 days required by R6(1)(d).

If applicants cannot submit marriage licenses, they may present evidence that the law of the province where they will marry, allows them to obtain a marriage license. This may be written advice from a practising lawyer in that province about the eligibility of the parties for a marriage licence.

You may refuse fiancées if they cannot prove their marriages will be allowed by law.

9.2.4 Degrees of consanguinity

In order to contract a valid marriage, a person must have the capacity to do so. An element of capacity is consanguinity.

The federal *Marriage (Prohibited Degrees) Act* prohibits marriage between persons related lineally by consanguinity or adoption, and between siblings, whether brother and sister by whole blood (same parents), half-blood (one common parent) or by adoption.

The following relations, whether by consanguinity to adoption, fall within the prohibited degrees of marriage. Applicants may not marry, in Canada, their:

- grandfather/grandmother;
- father/mother;
- brother/sister;
- half-brother/half-sister;
- son/daughter;
- grandson/granddaughter;
- other lineal relatives, such as great-grandparents/great-grandchildren.

You must refuse fiancées prohibited from marrying in Canada because of the degree of consanguinity.

Should the applicant and sponsor marry in a country where consanguinity is not a prohibition, you may change the immigrant category to spouse. You must still consider the requirements of R4(3).

9.3 Agreement to marry within 90 days

Sponsors agree to marry within 90 days by signing a statement to this effect on the IMM 1344A.

Applicants sign the box entitled Declaration of Fiance(e) Applicant on the IMM 0008.

Inform applicants in writing that they must prove they married within 90 days of arriving in Canada. Make it clear proof is a condition of landing and that they must present it within 180 days of their arrival.

Also inform them that if they do not marry and supply proof of marriage they are reportable under the *Immigration Act*. A report can lead to enforcement action, including removal from Canada.

Include instructions for reporting a marriage in the covering letter for fiance(e) immigrants. Tell them to send clear copies of their marriage certificate, their record of landing, their sponsor's record of landing or proof of Canadian citizenship and a self-addressed envelope to:

CPC Mississauga
Terms and Conditions
P. O. Box 6100
Station "A"
Mississauga, Ontario
L5A 4H4

You do not need to send a copy of the IMM 0008 to the CPC or CIC. You do not need to inform the CIC or CPC that you have issued an immigrant visa to a fiancée. Staff at these offices can monitor terms and conditions of fiancée landings without notification from abroad.

9.4 Fiancé(e) marries before visa is issued

Applicants may marry their sponsors before you finish processing their applications.

If the relationship is **mala fide**, refuse them as fiancées. Do not refer to the **bona fides** of their marriages in your refusal letter.

If you approve the application, change the immigrant category code to spouse after seeing proof of the marriage.

10 ADOPTED CHILDREN AND CHILDREN TO BE ADOPTED

10.1 Provincial and federal adoption agencies

In Canada provinces and territories are responsible for adoption and child welfare. Provincial legislation and procedures protect the rights and welfare of children.

Many provinces require homestudies before deciding to approve international adoptions.

The National Adoption Desk is part of Human Resources Development Canada. It has the lead federal role in international adoptions. It represents the interests of provincial adoption authorities abroad, with the exception of Quebec.

In Quebec, the *Secrétariat à l'adoption internationale* represents adoption authorities abroad.

10.2 Definition of adopted child and child to be adopted

The following may be sponsored as members of the family class:

- a dependent son or daughter whose adoption was finalized before having attained the age of 19, or
- a child under the age of 19 whom the sponsor intends to adopt and who is:
  - an orphan, (i.e. both parents deceased);
  - an abandoned child whose parents cannot be identified;
  - a child born outside of marriage who has been placed with a child welfare authority for adoption;
  - a child whose parents are separated and who has been placed with a child welfare authority for adoption; or
  - a child one of whose parents is deceased and who has been placed with a child welfare authority for adoption.

The adoption must not have been undertaken primarily for the purpose of gaining admission to Canada of the adopted child, including his/her dependants or relatives [R6(1)(e)].

Child welfare authorities of the province in which the child will live must not object to the proposed arrangements for the reception and care of the child [R6(1)(c)]. They must make a statement in writing, commonly called a "no objection letter". Some provinces issue letters of no involvement. They are also acceptable for the purposes of R6(1)(c).

> ***Note:*** *With respect to adopted children, the requirement for a letter of no-objection applies only to children adopted abroad by sponsors residing in Canada.*

10.3 Letter of no objection/no involvement

For adopted and to be adopted children, as well as orphaned relatives (see Section 8 above), the province where the child will live must state in writing it does not object to the arrangements for the reception and care of the child [R6(1)(c)]. This is commonly called a "no-objection letter." Some provinces may issue a letter of "no-involvement." This letter is also acceptable for the purposes of R6(1)(c).

The provincial authority may complete a home study before issuing the letter of no objection. Procedures differ from province to province. Sponsors should read the brochure *International Adoption and the Immigration Process*. It provides information about the responsible authority in each province (see APPENDIX E). This brochure is available from Call Centres.

CPC-M does not require letters of no objection/involvement to process and approve undertakings. CPC-M asks provincial authorities (see APPENDIX E and APPENDIX F) to send the letters directly to the appropriate visa office. It will also forward any letters it receives from the provinces to visa offices.

If sponsors live in Quebec, CPC-M forwards the undertaking to the *Ministère des Relations avec les Citoyens et de l'Immigration* (MRCI). It also sends a letter to sponsors instructing them to contact the MRCI to sign an *"engagement"*. The MRCI assesses sponsors. It sends copies of the *"engagement"* to the sponsor (see Section 3.9.1). The *Sécrétariat à l'adoption internationale du Québec* is responsible for issuing letters of no objection. It sends them directly to adopting parents.

10.4 Unnamed adoptions

Sponsors may submit undertakings for named or unnamed children to be adopted. They must state on their sponsorship application, where the child to be adopted lives.

CPC-M treats applications to sponsor unnamed children the same way as those for named children. On approving the sponsorship, CPC-M informs sponsors they must provide full particulars to the provincial authorities when the child has been identified (See APPENDIX G). It will also instruct sponsors to submit the application for permanent residence to the visa office responsible for the child's country of residence when the child is identified.

10.5 Adoptions not valid for immigration purposes

Adopted means a person adopted in accordance with the laws of a province or of a country other than Canada, where the adoption creates a genuine relationship of parent and child, but does not include persons adopted for the purpose of gaining admission to Canada or gaining the admission to Canada of any of their relatives.

There are three situations in which adoptions are not valid for immigration purposes.

10.5.1 Adoption not in accordance with local laws

Adoptions legally recognized where they occur are recognized in all provinces of Canada, except in Quebec. In Quebec, tribunals must grant recognition.

Sponsors carry the onus to prove adoptions are legal.

You verify that adoptions are in accordance with the laws of the country where they occur. Verification will generally be required only in those countries where registration of adoption is unregulated or where the adoption laws are not generally enforced.

You may refuse an application if the adoption does not comply with the laws of the country where it occurred. Not all countries allow foreigners to adopt children. Some allow only a guardianship. Others forbid international adoptions. In such cases, the child is not adopted and is not a member of the family class.

> ***Note:*** *Most visa offices have information about adoption in their territories. Consult them for information about unfamiliar laws or practices.*

Before deciding cases which do not exactly fit the regulations, consult the provincial authorities, the National Adoption Desk and local adoption authorities in the child's country of residence.

10.5.2 No parent-child relationship

You would normally not look at the conduct of the parties in order to determine whether a parent-child relationship exists unless the laws of the country in which the adoption took place regard this conduct as a legal requirement for adoption.

The existence of a parent-child relationship is more appropriately examined in the context of adoptions of convenience.

10.5.3 Adoption of convenience

You may assess the authenticity of relationships between adopting parents and adopted children. The reason for an adoption may be to gain admission of applicants, their dependants or their relatives (see definition of adopted) as members of the family class. If you believe an adoption is for this reason only, you cannot issue a visa [R6(1)(e)].

> ***Note:*** *Paragraph 6(1)(e) is retroactive and applies in respect of all applications for landing made by members of the family class pending on April 15, 1994.*

Explain in your refusal letter that the applicant does not comply with the definition of adopted and is not a member of the family class.

10.6 Natural parents cannot be sponsored

Adoption severs a child's legal relationship to birth parents. The child cannot later sponsor a birth parent. Immigration officers at the CPC will try to verify that sponsors submitting IMM 1344As for parents or grandparents are not in this situation.

If you have doubts, check for an immigration file for the sponsor.

> ***Note:*** *The definitions of son, daughter, mother and father are all worded so as to exclude a parent-child relationship if a son or daughter has been adopted by someone else.*

Inform the CPC if you learn a birth parent has been sponsored by an adopted person. CPC staff will tell such sponsors they are ineligible.

10.7 Revocation of an adoption

Foreign authorities may revoke foreign adoptions. Unless an immigration officer believes the revocation was not simply to facilitate sponsorship of a member of the family class, the sponsor is still ineligible [R6.1(3)].

If an applicant explains that the reason for revocation was to allow sponsorship of a member of the family class, inform the CPC for referral to a local CIC, in case you require more evidence to support a refusal.

10.8 Adoptions in countries which have signed the Hague Convention

Amendments to the *Immigration Regulations* required by the *Hague Convention on Intercountry Adoptions* came into force April 1, 1997 (see OM IP 97-19 for background information). This date coincided with implementation date of the *Convention* in Canada, in those provinces which took legislative steps to conform to it.

There are two principal regulatory requirements that must be met when the *Convention* applies. The central authorities of the receiving province and the country of origin must agree to a child's placement. Also, immigration requirements must be met before an adoption can take place.

The *Convention* applies when both the province where a sponsor lives and the country where the child lives have ratified and implemented the Convention (see APPENDIX H for a list of countries and provinces). If either condition is missing, the Hague Convention does not apply.

> ***Note:*** *The country where the child lives and not the country of the child's nationality determines if the Convention applies.*

Provincial central authorities are responsible for determining if the *Convention* applies to a case. When they so decide, the amendments that came into effect on April 1, 1997, also apply.

A pamphlet entitled *The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* is available through Call Centres. It explains to

prospective adoptive sponsors how to contact provincial authorities for information about applying to adopt and provincial requirements.

10.9 Notification of agreement to the adoption proposal

CPC-M does not determine if an adoption is subject to the Hague Convention. After approving sponsorships CPC-M staff send a letter to the provincial authority requesting issuance of either a letter of no objection (non-Hague case) or a notification of agreement to the adoption proposal (Hague case) (see APPENDIX F). The provincial authorities are in a better position to make the determination between the two types of cases and inform the visa post accordingly.

CPC-M also asks the province to send the applicable letter directly to the appropriate visa office. It will also fax and forward any letters it receives from the provinces to visa offices. These measures reduce processing delays.

You cannot issue immigrant visas in Hague cases without a notification of agreement from the provincial central authority.

When the child meets all immigration requirements, notify (see APPENDIX I) the provincial central authorities an immigrant visa will be issued.

10.10 Immigration processing for Hague cases

Hague adoptions can be finalized only when the child meets all requirements for obtaining permanent resident status in Canada. Also, the Convention requires contracting states to act quickly in processing adoption cases. You should try to attach the highest priority to processing Hague adoption cases.

Issue the medical examination form IMM 1017 as soon as you have proof of the child's identity and other information necessary to complete the examination. If possible, you may send medical instructions with the application for permanent residence. Indicate on the medical instructions that the examining physician and medical officer should process the case on a priority basis.

When you have determined the child meets immigration requirements, promptly notify the provincial central authority (see list of central authorities in APPENDIX E) by faxed letter (see APPENDIX I). Your notification will enable it in turn to notify the central authority in the country of origin, the child can be entrusted to the adoptive parents and the adoption finalized.

When you have been notified procedures for adoption or the child's transfer to the adoptive parents are complete, you must verify the sponsors have authority to take the child to Canada. Authority may be the adoption order if it has already taken place, or a custody order if it will occur in Canada. You must also verify the child has a travel document before issuing an immigrant visa. If the sponsors have authority to take the child to Canada and the child has a travel document, you can issue the visa.

Notify the NHQ/Selection Branch, Social Policy and Programs Division (SSG) and the National Adoption Desk (NAD), the federal central authority for implementation of the Convention, if you encounter difficulties in processing these cases. Eventually, NAD will report problems encountered to the committee in charge of following up on implementation of the Convention set up by the Hague Conference on Private International Law.

10.10.1 Inadmissible cases

If the child is inadmissible as an immigrant for medical reasons, the provincial central authority and the sponsor must be notified (refer to OP 14 for more information).

Communicate clearly and in detail, information of a medical nature concerning the child (medical officer's diagnosis and narrative description of child's state of health). This

information will enable the provincial central authority and the sponsor to better understand the reasons for a possible refusal. As indicated in OP14, in order for the procedure to be fair, the applicant must be given an opportunity to provide additional explanations or medical information to the examining physician (sponsors or the child's guardian may do this on the child's behalf). A 60-day deadline may be set; if nothing is received within the following 60 days, the application must be refused. Satisfying immigration requirements is one of the provisions of the Hague Convention. There is no right of appeal for the sponsor because the child to be adopted is not a member of the family class (see subsection 4(4) of the *Immigration Regulations*).

In the context of the Hague Convention, inadmissibility because of an adoption of convenience should in theory occur only rarely. The situation can occur, for example, if an adoption order was made in favour of adoptive parents, without proper procedures established by the central authorities being followed and without the authorities' agreement. You may refuse the application if, after examining the facts of the case, you are convinced it is in fact an adoption of convenience. Another basis for refusal may be the case does not comply with paragraph 6(1)(c.1) of the *Immigration Regulations*. There is no right of appeal for the sponsor because the child to be adopted is not a member of the family class (see Subsection 4(4) of the *Immigration Regulations*).

All adoption cases under the Hague Convention should receive prior approval from the central authorities of the country of origin and the receiving province before immigration procedures begin. Instances of children being adopted without approval from these central authorities should occur only very rarely. If an adoption ever takes place without approval from the central authorities, refer the case to the central authorities. If they do not approve the adoption, refuse the application because it does not comply with subsection 6(1)(c.1) of the Regulations. There is no right of appeal for the sponsor because the child to be adopted is not a member of the family class (see Subsection 4(4)of the *Immigration Regulations*).

10.10.2 Issuing IMM 1000s in Hague adoption cases

If the child will be adopted in the country of origin, use code FC9 (child adopted abroad). If the adoption is to take place in Canada, in the province of destination, use code FC6 (child to be adopted in Canada).

LIDS, IDSO, CAIPS, STAIRS have all been programmed to identify all adoption cases governed by the *Hague Convention on Intercountry Adoption.* Identification is necessary because Canada has an obligation to report the number of adoption cases under the Convention.

To meet this obligation, it is essential you enter the abbreviation HAG for the special program in box 20 of the immigrant visa (IMM 1000). The numerical code is 60.

10.11 Cost recovery and changing the child's name on the IMM 1344A

In adoption cases the principal applicants are minors under 19 years of age. They are dependants of their sponsors, who pay the processing fee for a dependant under 19 years of age.

Sponsors who cancel sponsorships cannot receive refunds.

If a sponsored child is no longer available for adoption, sponsors can ask CPC-M to replace the name on the IMM 1344A with the name of another child. CPC- M will not charge a new processing fee when it replaces a name for this reason.

CPC-M must provide the new name to the visa office and the provincial adoption authority. You should provide the new name to CPC-M and the provincial adoption authority if they are informed first.

If the name change results in a file transfer, sponsors must pay the fee for this service.

10.12 Improperly Documented Adoption Cases

Every year, a number of adoptive parents and their foreign-born children appear at ports of entry or at inland CICs without having been processed by a visa office overseas and/or having received the approval of their provincial/territorial adoption authorities, who have jurisdiction in child welfare matters. While CIC facilitates the reunion of families, the following procedures have been established to protect the children and maintain the safeguards in place regarding adoption cases.

10.12.1 Port-of-Entry Cases

Some adults may arrive at a port of entry with a child, saying they intend to adopt the child in Canada or that they have already adopted the child in another country, but they have not taken the necessary steps to obtain an immigrant visa for the child.

If they have no papers proving that they have legal custody of the child, immigration officers at ports of entry should refer to instructions in the "Our Missing Children" program. If the instructions do not apply, the examining officer may proceed as described below. (See PE 1, section 7.1.1-)

The examining officer at the port of entry should first inform the prospective adoptive parents of provincial/territorial legislation on adoptions and warn them of the restrictions on adoption and the possible legal consequences. If applicable in the province of residence, the prospective adoptive parents should be made aware that they might be fined and even convicted of a provincial offence. (Please refer to the Province Specific Information for Counselling section at 10.13).

Examining officers must bear in mind that when a child is admitted to Canada without the prior approval of provincial/territorial adoption authorities, the child may experience difficulties in receiving social, medical, and educational services. As well, the adopting parents may encounter problems in finalising the adoption in their province of residence.

If after counselling, the adoptive parents no longer wish to pursue the application for admission, the family should be allowed to leave Canada forthwith pursuant to paragraph 20(1)(b) of the Act, barring any concerns for the child's welfare.

There may be situations where the adoptive parents wish to pursue the application for admission of the child despite the counselling provided. In that event, the officer must be satisfied that the child is not in need of protection and, if so, the child's examination should be adjourned pursuant to subsection 12(3) of the *Immigration Act* for one week and the child referred to an Inland CIC office, (usually the office nearest to the parents' residence). This timeframe will allow the adoptive parent(s) to reach their intended destination and start the initial paperwork with provincial adoption authorities.

For this purpose a form has been designed (see Annex A). It must be completed at the port of entry and faxed to the provincial/territorial adoption authorities in the province/territory of destination of the child, copied by fax to the inland CIC office, to which the case has been adjourned, and to NHQ/SSG, to the attention of the adoption officer at 613-941-9323. NHQ will monitor the volume and disposition of these cases. A photocopy of the form must be given to the adoptive parents.

Parents must be instructed at the port of entry to contact provincial/territorial adoption authorities so that the adoption segment of the process can be started. It is the parents' responsibility to take the necessary steps to obtain the provincial/territorial approval of the adoption. The parents will then present themselves at the inland CIC office for the continuation of the examination.

10.12.2 Inland Cases

In addition to cases that will occur at the port-of-entry, there may be cases of children who have previously been admitted to Canada as visitors or foreign students and/or staying with relatives who decide they wish to adopt the child. They will approach CIC

and ask that the child obtain permanent residence status in Canada without having to return to the country of origin. Many of these cases are found to be adoptions of convenience, because these children have biological parents in their country of origin capable of taking care of them. Moreover, provincial/territorial adoption authorities might not agree to the adoption being finalised in Canada.

Inland CIC offices that receive such applications (including those cases that have been adjourned from a port of entry) should first ascertain that the provincial/territorial authorities have been advised of the case. If the port of entry adjourned the examination of the child following the procedures described above, this notification should have already been done via fax. If the case is not an adjournment from a port of entry, then the province/territory should be informed via fax (see Annex A to refer the case to provincial/territorial adoption authorities).

The onus will rest with the parents to provide confirmation to the inland CIC officer that the necessary contact has been made with the provincial/territorial adoption authorities.

Note: If there is lack of proof regarding the child's custody and/or concern regarding the child's welfare at any time, refer to the instructions in Chapter PE1. (See PE 1, section 7.1.1)

It is expected that the provincial/territorial agreement to the child's placement and/or the final adoption order (if the child is not already adopted) will take some time because of home study and social welfare issues. Therefore, after the officer at the inland CIC office is satisfied that the adoptive parents have contacted the provincial/ territorial adoption authorities, the officer should write a section 20 or 27 report regarding the child for not being in possession of an immigrant visa. Next, the child should be issued a Minister's permit with a maximum validity of 12 months (case type 86)

Although an application for permanent residence based on humanitarian and compassionate grounds may be submitted at any time, the adoptive parents should be instructed to complete this application after the province/territory agree to the child's placement and/or issue the final adoption order. CPC-Vegreville will process the application, referring applications back to the local CIC office where warranted.

> ***Note:*** *It was decided that the Minister's permit would be issued at the inland CIC office, to ensure that the child's examination can be completed in a comfortable, less stressful setting and that the adults involved do indeed present themselves and make contact with the province/territory to continue the processing. There have been unfortunate cases where children never received permanent residence status or where the provincial/territorial authorities were unaware of the case for long periods of time, resulting in the adoption not being finalised.*

10.12.3 Overseas Cases

As a result of provincial/territorial legislation, it is imperative that the statement of no objection from the provincial/territorial adoption authority be obtained as per R6(1)(c) prior to visa issuance for all international adoption cases, especially those destined to Alberta, British Columbia or Ontario (see 10.13). Officers should not facilitate a child's entry or otherwise encourage prospective adoptive parents to proceed to Canada without the provincial/territorial approval and the necessary documents for the child when it is evident that the prospective parents will be in violation of provincial/territorial legislation. Minister's permits, visitor visas or other facilitation of the early admission to Canada of children to be adopted should not occur unless approval has been obtained from the provincial/territtorial authority through a letter of no-objection.

10.12.4 FOSS and CAIPS Entries

It is imperative that a FOSS (NCB type 12 valid for two years) or CAIPS entry be made confirming that the adults involved have been counselled.

10.12.5 Province-Specific Information for Counselling

This section provides a quick overview of legislation in place in Alberta, British Columbia and Ontario that have a direct impact on the processing of adoption cases. This information is part of the counselling to be provided to parents.

As a result of these provinces' legislative changes, Minister's permits, visitor visas or other facilitation of the early admission to Canada of children to be adopted should not occur for children destined to the provinces of Alberta, British Columbia or Ontario. It is imperative that the statement of no objection from the provincial child welfare authority be obtained as per R6(1)(c) for all international adoption cases.

Officers should not facilitate a child's entry or otherwise encourage prospective adoptive parents to proceed to Alberta, British Columbia or Ontario with a child without first obtaining provincial approval and the necessary documents for the child when it is evident that the prospective parents will be in violation of provincial legislation. This is particularly important in the case of British Columbia and Ontario, where fines could be imposed.

Alberta

On March 31, 1995, *Bill 52* was proclaimed in Alberta. The new legislation impacts on private international adoptions as section 58(3) states: "No petition for an adoption order shall be filed in respect of a child unless the child is a Canadian citizen or has been lawfully admitted to Canada for permanent residence". Therefore, residents of Alberta are unable to obtain an adoption order on behalf of a child who is not a permanent resident of Canada. A child who comes to Canada on a Minister's permit, a visitor visa or a student visa cannot be adopted in Alberta. A Canadian or permanent resident couple who has a legal guardianship order for a child cannot obtain an adoption order, if the child has not obtained an immigrant visa or Canadian citizenship prior to arrival in Canada. This legislation addresses long standing concerns that birth parents' rights are being circumvented in adoption placements. By requiring the adoption to be completed prior to arrival in Alberta, or by having the adoption arrangements reviewed by an officer outside Canada, Alberta is seeking to ensure that all legal and birth parent issues are addressed prior to the child's arrival in the province

British Columbia

Since November 4, 1996, Section 48 (1) of British Columbia's *Adoption Act* states: "Before a child who is not a resident of British Columbia is brought into the province for adoption, the prospective parents must obtain the approval of the superintendent (of Adoptions) or an adoption agency". The adoption agency must be one licensed by the province.

Section 48 (2) states that the superintendent or the adoption agency will grant approval if:

a) the birth parent or other guardian placing the child for adoption has been informed about adoption and the alternatives to adoption;

b) the prospective adoptive parents have been provided with information about the medical and social history of the child's biological family;

c) a homestudy of the prospective adoptive parents has been completed in accordance with the regulations and the prospective adoptive parents have been approved on the basis of the homestudy, and;

d) the consents have been obtained as required in the jurisdiction in which the child is resident.

Parents who have not obtained the approval prior to bringing the child to British Columbia are in contravention of the Act and such offence is punishable under the Offences and Penalties section of the Act. Exceptions to section 48 of the *Adoption Act*

are made for a child brought into British Columbia for adoption by a relative of the child or by a person who will become an adoptive parent jointly with the child's birth parent, or if the child is a permanent ward of an extra-provincial agency. It is clear that the adoption of a foreign child brought into British Columbia without the approval of the Ministry is vastly restricted.

Ontario

The Ontario *Intercountry Adoption Act 1998* was proclaimed in full on March 8, 2000. Under the new requirements for Ontario, the prospective adoptive parent(s), including those adopting relatives, must:

Make an application to adopt with an international adoption agency that is licensed by the Ontario Ministry of Community and Social Services;

Have an adoption homestudy completed by an adoption practitioner approved by a Ministry Director; and

Obtain the Ministry Director's approval of their eligibility and suitability to adopt based on the homestudy report.

It is an offence for an Ontario resident to leave the province to adopt internationally or finalise an international adoption without satisfying each of these requirements. The penalty for contravention of this provision is, on conviction, a fine of up to $2,000 or imprisonment for up to two years, or both.

In cases where the child's country requires Ontario's approval before the adoption can be finalised, the proposed adoption placement will require the approval of the Ministry Director.

Only international adoption agencies licensed by the Ministry of Community and Social Services under the *Intercountry Adoption Act* can facilitate international adoptions finalised outside Ontario. It is an offence for any other person or organisation to provide this service.

11 ONE OTHER RELATIVE

Sponsors without a spouse, son, daughter, father, mother, grandfather, brother, sister, uncle, aunt, nephew or niece who is a Canadian citizen or a permanent resident, or a relative who can be sponsored as a member of the family class, can sponsor one relative regardless of age or relationship (anyone connected by blood or adoption).

Sponsors submit information concerning family members on the Family Information Sheet reproduced at APPENDIX A (also found at APPPENDIX A, IP2, *Processing undertakings in Canada*). CPC staff will forward this information with the IMM 1344A.

If the chosen relative is inadmissible, the sponsor may choose another.

12 PROCESSING DEPENDANTS OF APPLICANTS IN CANADA

Only applicants for landing who are Convention refugees or members of an A6(5) class can request parallel processing for all, or some of their dependants, residing in Canada or abroad.

A6(5) classes include live-in caregivers in Canada (LCP), members of the deferred removal orders class (DROC), and members of the post-determination refugee claimants in Canada class (PDRCC).

When the principal applicants in Canada and their dependants abroad meet requirements for visas, the CPC may land the principal applicants and the visa office may issue visas to the dependants.

Dependants of persons who apply for permanent residence from within Canada on humanitarian and compassionate grounds, cannot request parallel processing for their dependants abroad. For this reason you will not be asked to assist with their examination.

Full details for dependants of live-in caregivers are found in OP 13. Additional details concerning dependants of Refugees are found in IP 3, *Processing Refugee Applications for Landing*.

The following is a general summary of procedures for processing dependants of applicants in Canada.

12.1 Requirements for the CPC

The Case Processing Centre in Vegreville processes applications from applicants in Canada.

Applicants in Canada must name all their dependants on **Supplementary Information** forms. They must include dependants abroad, as well as in Canada, and identify which among them are seeking landing. Both those seeking landing and those who do not must submit to examination for admissibility.

For a dependant residing abroad, the CPC will forward to the responsible visa office:

- A copy of the **Supplementary Information** form with personal details and addresses of dependants overseas. It also states which dependants are also seeking landing.
- The applicant's address in Canada.
- Confirmation all fees have been paid for dependants who are also applying.

12.2 Requirements for the visa office

Upon receipt of information from the CPC the visa office will:

- send IMM 0008s to the dependants;
- open DR2 (refugees), LC2 (LCP), RM2 (DROC) or PD2 (PDRCC) files in all cases, whether or not the dependants are applying for visas;
- confirm identity and relationships;
- insert codes "999" and "LFN" on CAIPS processing screens and IMM 1343s if dependants are not applying for visas. Include an explanation in the remarks box (ie: LC2 not applying for permanent residence);
- issue medical instructions and carry out background examinations.

12.3 Quebec cases

The visa office allows the MRCI three months from the receipt date of the application for an immigrant visa, to issue a CSQ. If after three months applicants meet all require-

ments for visa issuance and the CSQ has not been issued, the visa office issues the visa.

The visa office finalizes processing of the application for an immigrant visa and issues the IMM 1000.

If the application is refused or withdrawn, or applicants tell you they do not plan to use their visa, send a copy of the refusal letter or file closure letter to ***Service aux garants et aux candidats à l'immigration*** in Montreal (not to an SIQ office abroad).

Do not send a copy of the IMM 1000 to MRCI in approved cases.

12.4 Dependants who do not comply

If dependants of A6(5) applicants do not complete and return IMM 0008s or do not provide documents within time limits, request them again. Send copies of the follow-up request to the applicant in Canada and to CPC Vegreville if it is a non-CAIPS case.

Include a deadline for responding to the second request. Explain that if dependants do not respond, you will close your file and the applicant in Canada might be refused (see Section 12.7).

The CPC can land Convention refugees even if their dependants do not undergo examination. Before doing so, the refugees must delete these dependants from their application.

12.5 Contacting dependants

Contact dependants residing abroad directly or through the principal applicant in Canada. The CPC will only assist in contacting overseas dependants in exceptional situations.

12.6 Finalizing approved cases

Inform the CPC by fax or e-mail when dependants meet identity, relationship and other statutory requirements. Include validity dates and your file number for both accompanying and non-accompanying dependants.

CPC Vegreville's fax numbers are (780) 632-8100 or (780) 632-8101. Address all e-mail messages to client services CPC-VEG-ENQUIRIES@9518RNV@CIPC.

When the CIC confirms the principal applicant is a permanent resident, accompanying dependants abroad may receive their visas.

If the dependants are non-accompanying, close the file by withdrawing it. Explain the withdrawal in the case notes, e.g. "LC2 dependant did not seek permanent residence."

Do not issue visas to non-accompanying dependants. The applicant in Canada can sponsor them as members of the Family Class at a later date. At that time they must meet all requirements for visa issuance.

12.7 Finalizing refused cases

Inform the CPC if any accompanying or non-accompanying dependants are inadmissible. Report as well any dependants who did not comply with any instructions or requests by deadlines (see Section 12.4).

Close your file as "refused" for accompanying dependants and as "withdrawn" for non-accompanying dependants. You do not need to send a refusal letter to the accompanying dependants.

Different procedures apply to DR2 and PD2 category applicants. They are exempt from portions of A19. In addition, the inadmissibility of a DR2 applicant does not affect the Convention refugee in Canada.

When failure of dependants to undergo medical and background checks will make the applicant in Canada inadmissible, review the application to ensure:

- the applicant's spouse or child was indeed subject to examination, i.e. was not a separated spouse or child in the custody of the other parent (see Section 12.4, Dependants who are not subject to examination); and
- they and the applicant in Canada knew that their failure to undergo medical and background checks could result in refusal of the application for landing in Canada (see Section 12.4).

> ***Note:*** *Procedural fairness requires that applicants be aware of factors which may contribute to a negative decision and be afforded the opportunity to respond.*

12.8 Ineligible dependants

If dependants listed on the *Supplementary Information* form are ineligible, e.g. because they are not full-time students, or not subject to examination, e.g. separated spouses:

- inform the CPC;
- tell the ineligible or separated dependants to ignore any previous requests to undergo examination or provide documentation; and
- close the file by withdrawing it and enter an explanation in the case notes.

The CPC will:

- inform applicants that the ineligible or separated dependant cannot be part of the application;
- finalize processing.

> ***Note:*** *The CPC must allow applicants an opportunity to provide additional information within a deadline and to apply for a ROLF refund if applicable.*

Applicants do not have to delete ineligible dependants from their application, before the CPC can issue a record of landing.

13 LANDING/VISA ISSUANCE

13.1 Landing the applicant in Canada

When applicants and their accompanying and non-accompanying dependants meet all requirements, the CPC inputs the landing information into FOSS. In the visible remarks, the CPC provides the names and details of accompanying dependants residing abroad, the visa office and file number. An inland office receives an electronic IMM 1000 from the CPC.

The inland office prints the IMM 1000, Immigrant Record of Landing and lands applicants and dependants in Canada. It also informs the visa office, by E-mail or facsimile, that landing has occurred.

13.2 Issuing visas to accompanying dependants

Upon notification of landing, provided medical and background checks are still valid, approve the case and issue immigrant visas to accompanying dependants.

14 ISSUING THE VISA - GENERAL

When all requirements are met, you may issue the visa.

Attach counselling information as appropriate.

Explain in writing that all dependants must travel with the principal applicant, or follow before the validity date on their visas. Dependants who precede principal applicants cannot seek landing.

State on the visa that all dependants have met the requirements for visa issuance. Ensure you include the names of non-accompanying dependants and state they have also undergone examination (see Section 4.1.4).

15 REFUSALS

15.1 Refusals of sponsored dependent children

Ensure all possible reasons for refusal are included in the refusal letter.

For children claiming to be full time students, note if attendance was not full-time, if the program was not academic, professional or vocational, if the student was not financially dependent on the parents or if the student was not continuously enrolled since attaining the age of 19.

For children who do not have a mental or physical disability, as claimed, note if they were not wholly or substantially supported by the parents or were capable of supporting themselves.

15.2 Applicant is clearly not a member of the family class

Although the CPC does not verify relationships, it will verify that the sponsor has listed a relative who is described in the family class.

You may receive sponsorships for persons who are clearly not members of the family class. The CPC sends these undertakings to missions only if sponsors insist.

> ***Note:*** *The CPC will indicate the sponsorship is not on behalf of a relative described in paragraph (h) of the definition of member of the family class - other family member.*

In addition, the CPC will attach the sponsor's reasons for submitting an IMM 1344A for an ineligible member of the family class; for example, humanitarian and compassionate reasons.

If you receive such a sponsorship, assess the applicant as a skilled worker. You cannot assess the applicant in the family class. Note any humanitarian and compassionate grounds which would warrant exceptional treatment under R2.1. (See OP1, Section 21.)

If there are insufficient humanitarian and compassionate grounds, refuse the application as not meeting selection criteria for skilled workers. Explain on the letter that the sponsor does not have appeal rights.

Send a copy of the refusal letter to the CPC for information.

Should the sponsor file an appeal notwithstanding this advice, an appeals officer will file a motion of non-jurisdiction with the IAD.

15.3 Sponsor does not meet settlement arrangements

You may receive undertakings from sponsors who do not meet the income test.

> ***Note:*** *The CPC will forward the* IMM 1344A *with a copy of the financial information provided by the sponsor.*

The application should be refused under A77 linked to R6(1)(b)(iii) - inability of the sponsor to support the applicant (see section below). It is not necessary to also refuse the applicant under A19(1)(b).

Refusals under A19(1)(b) are appropriate only where settlement arrangements are not applicable, such as for a spouse and/or child [see R6(3)].

15.3.1 Applicability of A19(1)(b) in relation to sponsor's responsibility under R6(1)

a) Provisions of R6(1)

Under the provisions of R6(1), an immigrant visa may be issued to a member of the family class if:

(i) he and his dependants are not members of any inadmissible class and otherwise meet the requirements of the *Act* and *Regulations*; and

(ii) the sponsor meets the applicable requirements set out in Section 5.

Note: *In some cases, the sponsor need not satisfy the immigration officer that the undertaking can be fulfilled [R6(3)].*

b) Meeting requirements

When processing an application, you must be satisfied that the immigrant and the dependants do not fall into any of the categories described in A19 and meet all other requirements (see A9(3) and R6). Thus, with respect to A19(1)(b), it is incumbent upon all immigrants to satisfy you that they are able and willing to support themselves without social assistance or that adequate arrangements have been made for them.

c) Undertaking

A sponsor must also meet certain requirements to have a successful sponsorship. In all cases, there must be an undertaking to assist the immigrant and the dependants in becoming successfully established and, where applicable, the immigration officer must be of the opinion that it can be fulfilled. It is clear that R6(1)(b) and R6(3) are directed towards the sponsor and have an effect on the undertaking only. They do not exempt the immigrants from the provisions of A19(1)(b).

d) Refusal of an application

A77(1)(a) provides for the refusal of an application if the sponsor does not meet the requirements of the regulations respecting persons who sponsor applications for landing. In these situations, there is no need for the visa officer to determine the admissibility of the immigrant since a visa cannot be issued in any case (see R6(1) and R5(2)(f)). When an application is refused for this reason, the visa officer will inform the sponsor of the reasons why he/she is not satisfied with the undertaking.

e) Determining support

In determining whether the immigrant can overcome A19(1)(b), you will first determine whether the applicant is able and willing to support himself. If the applicant does not satisfy this requirement, you must determine if adequate arrangements have been made for support. In this case, the sponsor's situation, ability and willingness to assist should be considered, even in those cases where the immigration officer did not have to form an opinion on the undertaking (i.e., when settlement arrangements did not apply). You must remember that A19(1)(b) can be overcome if there are adequate arrangements for care and support. This can include assistance from other than the sponsor (e.g., other relatives in Canada).

f) Examples

The following situations help clarify the relationship between A19(1)(b) and R6(1) and R5(2)(f).

Situation No. 1:

- Sponsor meets the income test [R5(2)(f)].
- Immigrant is able and willing to provide support.

Result: A19(1)(b) is satisfied.

Situation No. 2:

- Sponsor meets the income test [R5(2)(f)].
- Immigrant is unable or unwilling to provide the required support.

Result: A19(1)(b) is satisfied; the undertaking brings into operation the exception clause.

Situation No. 3:

- Sponsor need not meet the income test [R6(3)].
- Immigrant is able and willing to provide the required support.

Result: A19(1)(b) is satisfied.

Situation No. 4:

- Sponsor need not meet the income test [R6(3)].
- Immigrant is unable or unwilling to provide the necessary support and care.

Result: A19(1)(b) can be satisfied if the immigrant has made adequate arrangements for care and support in Canada. The most logical source here is the sponsor, but it may include other persons, groups, organizations, etc.

A19(1)(b) is not satisfied where proper arrangements have not been made. This could apply where the situation in Canada is such that it would require the immigrant to seek public/governmental assistance upon landing. However, because of the acknowledged humanitarian aspects of reunification of refugee families, officers are encouraged not to refuse sponsored spouses and/or dependent children of refugees unless arrangements for care and support are virtually non-existent and offer no prospect of improvement. Refusals should be extremely rare if the sponsor is employed, however marginally.

Situation No. 5:

- Sponsor must satisfy the immigration officer that the income test is met, but
- Sponsor cannot satisfy the immigration officer.

Result: The application cannot be approved whether or not the immigrant is able and willing to provide care and support. The sponsor has failed a requirement. Authority is found in A77(1)(a) for failure to comply with R6(1)(b). There is no need for you to determine whether the immigrant is admissible since, under R6(1), a visa cannot be issued. Subsequent to the refusal of the application, the visa officer must inform the sponsor of the reasons why in his/her opinion the undertaking cannot be fulfilled.

15.4 Settlement arrangements for non-accompanying dependants

CPC-M assesses the income test for all sponsored persons, including non-accompanying dependants.

If settlement arrangements are not met for all dependants, whether accompanying or not, it will be necessary to refuse the entire application. The refusal would be based on A77 linked to R6(1)(b) and R5(2)(f). Under R5(2)(f), the sponsor must meet the income test. The definition of "undertaking" includes a promise to support all dependants without distinction as to accompanying or non-accompanying dependants.

15.5 Notifying sponsors of appeal rights

These procedures apply to all family class applications, including those sponsored by residents of Quebec. They also apply to cases of refused sponsored applicants who receive Minister's permits.

A77(3) allows sponsors to appeal refusals of family class applications for landing.

You must send a letter (see APPENDIX D) to the sponsor at the sponsor's address in Canada. If the sponsor is temporarily outside of Canada, you may send the letter to a non-Canadian address.

With the letter include a copy of the refusal letter to the family class applicant, a Notice of Appeal IRB/CISR 428 (6/98) (see APPENDIX K) and information insert (see APPENDIX M).

The dates on original refusal letters sent to the family class applicants and copies sent to sponsors must be identical. Sign both the original and the copy of the refusal letters.

Include the sponsor's client ID or the applicant's client ID and the applicant's file number in the upper right hand corner of the notification of appeal rights letter. The sponsor's client ID is an eight digit number divided by a hyphen. It can be found on the undertaking of assistance (IMM 1344A). The applicant's client ID is the last eight figures of CPC-M's file number. The CPC-M file number begins with the point of service code 9570. It is part of the information sent electronically by CPC-M to visa offices.

You should add the information insert to refusal letters for family class applicants. Adding this information is an effort to obtain new addresses for sponsors. Including it in the refusal letter saves you the work of requesting updated addresses separately. It does not replace the notification of appeal rights letter to the sponsor. IAD rules do not allow visa officers to notify sponsors through applicants.

You can use regular mail to notify sponsors of appeal rights. If regular mail is not reliable, you should use unclassified diplomatic bags.

> ***Note:*** *If sponsors or applicants supply a new address in response to the text in* APPENDIX M, *visa offices must re-send the notification of appeal letter to that address. There is no set time limit on the response other than that imposed by the schedule for Disposition of Paper Documentation (see* OP 1*). You can retain undeliverable returned envelopes and notification of appeal rights letters on applicants' files. Treat them as you would refusal letters according to the Disposition of Paper Documentation schedule. Visa offices need not make any further attempt to locate sponsors. The text in* APPENDIX M, *as well as notices in sponsorship and permanent residence application guides or covering letters about the importance of keeping us informed of address changes, demonstrate due diligence on our part.*

15.5.1 Recording ROLF refunds

If sponsors forego an appeal, they may apply to CPC-M for a ROLF refund. The refund application instructions are in the letter to the sponsor.

CPC-M will notify visa offices if it refunds the ROLF. When this happens confirm that the ROLF code in the CAIPS file is "LRC." For non-CAIPS offices or files, a note that ROLF was refunded should be clearly visible on the file.

Should sponsors receive ROLF refunds and appeal successfully, they must pay the ROLF again. Changing the code in CAIPS prevents visa issuance without a second ROLF payment in re-opened cases. The note on non-CAIPS files serves the same purpose.

> ***Note:*** *You will close files before knowing if sponsors receive refunds from CPC-M. Do not wait until CPC-M informs you it has issued a refund before closing the file. In CAIPS files if the ROLF code is "LFA" or "LFC" indicating the fee was paid, you must change it before you can use the final decision code "4" for refused cases. For cases received after May 1, 1997, delete these paid codes and leave the ROLF code blank if you refuse the case. Record this operation in CAIPS notes. For cases received before May 1, 1997, enter the code LFN and include a reference in CAIPS notes to this instruction, i.e. OP2, Section 15.5.1. There is no specific code for cases pending either appeals or*

refunds. Do not use the code "LRC" unless CPC-M informs you it has paid a refund. You can change the ROLF code to "LRC" on receipt of such information after the case is closed by pressing F13 - File Management - from the Main Menu and then F16 - Change Landing Fee Code. It will be written to the database.

15.5.2 Dispatching statutory declarations and files to appeals offices for preparation of the record

IAD rules include a deadline of 180 days for CIC to provide the record to the IAD. Appeals offices prepare the record. The record includes the visa officer's statutory declaration and documents from the visa office file.

The service standard for visa officers to send information needed for preparation of the record to appeal offices is six weeks. This period begins with an e-mail message from the IAD registry (see below). It ends on the date you mail the package to the appeals office. If you send the package by unclassified bag, make sure the bag will depart before the six-week period is up.

It is essential you meet or exceed this service standard. Appeals officers need the bulk of the 180 days to prepare the record. Often they must obtain certified translations of documents from the visa office file. This activity alone can use up much of the 180 days.

If the appeals office does not dispatch the record in 180 days, the IAD may choose to hear appeals without it. If this happens, CIC loses the opportunity to present the best possible case for maintaining your refusals.

Sponsors must file appeals directly with the IAD registry. When this happens, the IAD registry will inform visa offices by e-mail.

On receipt of the e-mail, prepare the file and statutory declaration. Send them to the appeals office indicated by the IAD registry in the e-mail.

Quick responses from visa offices will help appeals officers meet the deadline for preparing the record. Meeting this deadline is important to CIC.

Statutory declarations from Medical officers

The role of medical officers in preventing the admission of medically inadmissible people goes beyond issuing medical notifications. Medical officers' expert knowledge is central to hearings officers' successful defence of medical refusals before the IAD.

In appeals of medical refusals, the IAD assesses the reasonableness of the medical officers' decision. In excessive demand cases, the IAD will assess evidence of the following:

- the reasonableness of the diagnosis/prognosis;
- the degree to which the provision of services appropriate to the medical condition are available;
- the cost of health or social services appropriate to the medical condition;
- the effect on these services of the arrival of the medically inadmissible individual.

Medical officers will make statutory declarations when sponsors appeal refusals based on A 19(1)(a)(ii). This part of the *Immigration Act* mentions two medical officers. These procedures and guidelines concern the first of the two.

The visa office is responsible for informing medical officers when and where to submit these declarations.

It is also responsible for confirming medical officers provide statutory declarations. Visa offices and their medical officer(s) will co-operatively find a method of notification and confirmation that works in local circumstances.

The format of statutory declarations is in APPENDIX N.

A statutory declaration is simply a factual statement. It is a substitute for oral testimony.

Medical officers should imagine they are being questioned about how they formed the opinion the applicant is described in A 19(1)(a)(ii). They should provide a straightforward answer. They should avoid using terms someone unfamiliar with their work may not understand. The diagnosis and narrative are already part of the applicant's file. The statutory declaration may be less clinically precise.

The statutory declaration must include certain information. The name of the applicant and the date of the medical officers' assessment are essential. So are details of the history of the medical examination, such as further instructions.

Medical officers must cite all medical evidence about the applicant that was part of their assessment. They must also set out their reasons for concluding there is a reasonable expectation of excessive demands.

They will attach as exhibits (see Section 4, APPENDIX M) copies of medical reports supporting this conclusion.

Sometimes medical officers consult other medical experts. If they do, their statutory declaration or exhibits must describe the qualifications of the expert.

In the immigration medical examination process applicants may supply medical information about themselves (see OP 14, Section 4). They may also provide information about health or social services in Canada OM IP 96-08/OP 96-05 28 MAR 96. If they do, it must be clear in the statutory declaration that medical officers considered this information.

As well, medical officers will outline how information from the applicant related to the final assessment. If this information conflicts with the immigration medical report, they will explain how it affected their opinion that the applicant is described in A19(1)(a)(ii). To counter information about health and social services, they will cite the evidence about the cost of these services they considered before concluding there is a reasonable expectation of excessive demands.

Together medical and visa officers will establish a standing procedure for getting the medical officer's statement to the appeals office quickly. Hearings officers will disclose medical officers' evidence according to IAD rules. For these reasons, hearings officers require the evidence well in advance of the appeal hearing. This task is a priority for medical officers. They should complete it by the same deadline as visa officers have for submitting their files.

When medical and visa officers are at the same mission, sending the medical statutory declaration to the appeals office with the visa office file is best. For cases at other missions, it may be better for the medical officer to send it directly to the appeals office. In such cases, the visa office is responsible for telling the medical officer the name of the sponsor, the appeals office file no. and address. The medical officer must include the sponsor's name and the appeals office file no. in a covering memo.

Medical officers can seek advice on how to prepare statutory declarations from either the visa office or the appeals office.

15.5.3 Appeal allowed

After the fifteen-day period for application for leave and judicial review, the IAD will provide visa offices with copies of final decisions and reasons in each appeal of a refusal of family class applicants.

When an appeal is allowed, the notification directly from the IAD allows you to resume processing of the application immediately.

A77(5) obliges you to review the application. You must determine if you can approve it subject to the requirements of immigration legislation. Sponsors and applicants are only exempt from the requirements the IAD set aside in its decision.

To determine if you can approve the application you may re-examine the applicants.

You do not always need to re-examine applicants. You may not have reason to believe they are now inadmissible for new causes (see also OP 14).

If you are satisfied re-examination will not uncover new inadmissibility, record your reasons in the case notes.

Unless you have new reasons not to issue an immigrant visa, this is the document applicants receive. Do not issue a Minister's permit to overcome the inadmissibility set aside by the IAD.

15.5.4 Appeal withdrawn

Appeals are *de novo* hearings. If the facts no longer support the refusal, the IAD must allow the appeal. Rather than letting the appeal reach this inevitable conclusion, hearings officers may concede cases before the hearing stage. Sponsors withdraw their appeals and hearings officers instruct you to resume processing.

Examples of such instances include the improvement of an applicant's medical condition, a positive result from a DNA test of a relationship, or the death of an inadmissible dependant.

When a hearings officer instructs you to resume processing because there are no longer any grounds for refusal, treat the application as if the appeal was allowed (see above).

APPENDIX A
FAMILY INFORMATION SHEET

(See Section 11)

(PART I)

Both sides of this form are to be completed by the sponsor.

I do not have a spouse, son, daughter, father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew or niece who is a Canadian Citizen or permanent resident.

I also do not have a spouse, son, daughter, father, mother, grandfather, grandmother, brother, sister, niece or nephew that I can sponsor in the family class.

In order to provide evidence of the above I submit the following information:

My name is: _____

I wish to sponsor *(name of proposed immigrant)* _____

who is my *(relationship to sponsor)* _____

(If never married, do not complete the area below)

My spouse's name is: _____

His/her date of birth is: _____

His/her address is: _____

_____

_____

_____

_____

Date of divorce (if applicable) _____

Date of death (if applicable) _____

My spouse's status in Canada is: *(if a Canadian Citizen or Permanent Resident)*

_____

(Complete the reverse side of this form)

(PART II)

Relationship 3(q) section 267 (assault with weapon or causing bodily harm)	Name (family name, given name)	Date and Place of birth/death	Address	Status in Canada**
my son*				
my daughter*				
my father				
my mother				
grandfather (my father's father)				
grandmother (my father's mother)				
grandfather (my mother's father)				
grandmother (my mother's mother)				
my brother*				
my sister*				
my aunt*				
my uncle*				
my nephew*				
my niece*				

* If more than 1, list on a separate sheet.
**Indicate "C.C." if your relative is a Canadian Citizen.
Indicate "P.R." if your relative is or was ever a permanent resident of Canada.

APPENDIX B
"DANGER TO THE PUBLIC" EQUIVALENT OFFENCES IN CANADA

[See Section 4.6.1b]

1. An offence under any of the following provisions of the *Criminal Code*:

(a) section 76 (hijacking);

(b) section 77 (endangering safety of aircraft or airport);

(c) subsection 78.1(1) (seizing control of ship or fixed platform);

(d) subsection 81(1) (using explosives);

(e) section 85 (use of firearm during commission of offence);

(f) section 87 (possession of a weapon);

(g) section 151 (sexual interference);

(h) section 152 (invitation to sexual touching);

(i) section 220 (causing death, criminal negligence);

(j) subsection 235(1) (murder);

(k) section 236 (manslaughter);

(l) section 239 (attempt to commit murder);

(m) section 244 (causing bodily harm with intent);

(n) section 246 (overcoming resistance);

(o) subsections 249(3) and (4) (dangerous operation of a motor vehicle causing bodily harm, death);

(p) subsections 255(2) and (3) (impaired driving causing bodily harm, death);

(q) section 267 (assault with a weapon or causing bodily harm);

(r) section 268 (aggravated assault);

(s) section 269 (unlawfully causing bodily harm);

(t) section 271 (sexual assault);

(u) section 272 (sexual assault with a weapon, threats to a third party or causing bodily harm);

(v) section 273 (aggravated sexual assault);

(w) sections 279 and 279.1 (kidnapping, hostage taking);

(x) section 344 (robbery);

(y) section 346 (extortion);

(z) section 348 (breaking and entering);

(aa) subsection 430(2) (mischief, danger to life);

(bb) section 433 (arson-disregard for human life);

(cc) sections 434 and 434(1) (arson: property, own property);

(dd) subsection 463(a) and (b) (attempts, accessories);

(ee) paragraph 465(1)(a) (conspiracy to commit murder).

2. An offence under any of the following provisions of the *Narcotic Control Act*:

    (a) section 4 (trafficking);

    (b) section 5 (importing and exporting).

3. An offence under any of the following provisions of the *Food and Drug Act*:

    (a) section 39 (trafficking in controlled drug);

    (b) section 48 (trafficking in restricted drug).

APPENDIX C
SAMPLE A77(3.01) LETTER TO SPONSOR

[See Section 4.6.1b]

Date

(Insert visa office's address, client's file number and FOSS identification number for sponsor and, if applicable, the applicant)

To: *(insert sponsor's name and address)*

Dear Mr./Ms./Mrs. *(insert sponsor's name)*

Re: Notice of possible issuance of the Minister's opinion, pursuant to paragraph 77(3.01)(b) of the *Immigration Act* that (*insert name of sponsored applicant)* is a danger to the public in Canada.

Please be advised that the Department of Citizenship and Immigration is in possession of evidence suggesting that (insert name of sponsored applicant), who you have sponsored, is a danger to the public in Canada. As a result, the Minister will be considering whether to issue an opinion, pursuant to subsection 77(3.01), that (insert name of sponsored applicant) is a danger to the public in Canada.

The evidence to be considered by the Minister concerns both danger to the public and equity (humanitarian and compassionate) factors, and consists of the following documentation:

(Insert a complete outline of the all the evidence concerning danger and equity to be forwarded to Case Management for consideration. Each piece of evidence must be summarized, taking into account privacy concerns and possible danger to sources, so that the appellant/sponsor knows the case against the sponsored applicant and is able to respond thereto, if he/she so desires. In order to avoid litigation, the summarization of the evidence must be as thorough as possible and presented in a balanced fashion.)

The issuance of the Minister's opinion under subsection 77(3.01) will remove your right of appeal to the Immigration Appeal Division should a refusal of the application for permanent residence of (insert name of sponsored applicant) sponsored by you, be issued.

In order to provide you with the opportunity to address the above noted evidence, you may forward to the address noted above, within 30 days of receipt of this letter, any representations, information or evidence regarding the issues of whether (insert name of sponsored applicant) is a danger to the public and whether there are sufficient humanitarian and compassionate factors in your favour that would outweigh any danger (insert name of sponsored applicant) presents.

If representations made by you or your counsel are received within thirty days of your receipt of this letter, they will be considered by the Minister or his delegate in determining whether the opinion will be issued.

Please note that if no submissions, information or evidence are received from you within 30 days of your receipt of this letter, the Minister may issue an opinion based on the evidence before him.

(signature of the visa officer)

(insert name of signing visa officer)

(telephone number and facsimile number of the visa officer)

APPENDIX D
LETTER NOTIFYING SPONSOR OF APPEAL RIGHTS

(See Section 15.5)

This letter refers to the Undertaking of Assistance you submitted in support of the application for an immigrant visa application made by *(name of principal applicant)*.

I regret to inform you the application has been refused. *(name of principal applicant)* does not meet requirements of immigration legislation. I have attached a copy of the refusal letter sent to *(name of principal applicant)*. It explains the reason(s) for refusal.

Subsection 77(3) of the *Immigration Act* allows a Canadian Citizen or a permanent resident who has sponsored an application for landing made by a member of the Family Class, to appeal to the Immigration and Refugee Board on either or both of the following grounds, namely: on any ground of appeal that involves a question of law or fact, or mixed law and fact; and on the ground that there exist compassionate or humanitarian considerations that warrant the granting of special relief.

If the Appeal Division finds an applicant is not a member of the family class, it will not have jurisdiction to consider the appeal on the ground that for compassionate or humanitarian reasons, granting special relief is warranted.

You may commence an appeal by completing the enclosed Notice of Appeal and mailing it with a copy of this letter to one of the addresses on the enclosure entitled **Important Instructions**. Choose the address of the office responsible for the province where you live.

You must attach a copy of this letter and a copy of the refusal letter with your Notice of Appeal. The completed form and a copy of this letter must be received within **30 days** from the date you receive this letter.

If you have paid a Right of Landing fee and decide to appeal this decision, you should **not** apply for a refund of the Right of Landing Fee. If you do not win your appeal, you may apply for a refund of the fee at that time.

If you decide **not to appeal** this decision please read the statement in italics below. By signing, you agree with this statement and are requesting a refund of the Right of Landing fee.

I have decided not to appeal the refusal decision on the application of (name of principal applicant) and I am requesting a refund of the Right of Landing fee I submitted with this Undertaking of Assistance.

Signature of Sponsor
Date

If you have signed and dated the request for a refund, please mail this letter to:

Case Processing Centre
P.O. Box 6100
Mississauga, Ontario
L5A 4H4

Include a copy of the refusal letter sent to *(name of principal applicant)* with this request. You should receive the refund within six weeks of notifying the Case Processing Centre.

If you require further assistance, please contact the Telecentre and be prepared to quote your client number *(indicated at the top right of this letter)* and your date of birth. The telephone number can be found in the blue pages of the telephone directory.

APPENDIX E
PROVINCIAL/TERRITORIAL INFORMATION AND CONTACTS FOR ADOPTION AND ORPHANED RELATIVE CASES

(See Section 10.3 and Section 10.10)

See our Web site address: http://www.cic.gc.ca/english/immigr/adopt2_e.html

APPENDIX F
SAMPLE OF LETTER CPC-M SENDS TO PROVINCIAL/TERRITORIAL ADOPTION AUTHORITY TO REQUEST ISSUANCE OF THE NO-OBJECTION LETTER/NOTIFICATION OF AGREEMENT

(See Section 10.3 and Section 10.9)

CASE PROCESSING CENTRE
P0 BOX 6100
MISSISSAUGA, ONT
L5A 4H4

CLIENT NO.:
KIT ID NO.:
DATE:

TITLE OF CONTACT PERSON
PROVINCIAL/TERRITORIAL MINISTRY RESPONSIBLE FOR ADOPTIONS
ADDRESS

We have approved an Application to Sponsor a Member of the Family Class on behalf of:

SELECT AND INSERT

1) name of child, date of birth and country of residence .....for a named child

2) an unnamed child to be adopted by the sponsor from "identify country"...for an unnamed child

Paragraphs 6(1) (c) and 6(1)(c.1) of the *Immigration Regulations*, 1978, require that a "No-Objection/No-Involvement" letter (for non-Hague adoption cases) or a Notification of Agreement to the adoption proposal (for Hague adoption cases) be issued by the province in which the child(ren) will reside. We understand that your office will be contacting the sponsor directly with any further requirements or concerns you may have regarding this adoption. Accordingly, we request that you issue the appropriate document. The sponsor's complete address is:

SPONSOR'S NAME

ADDRESS

We request that you send the "No-Objection/No-Involvement" letter (for non-Hague adoption cases)* or a Notification of Agreement to the adoption proposal (for Hague adoption cases)* directly to the Visa Office at the following address:

VISA OFFICE
ADDRESS
FAX NO.

*** PLEASE CLEARLY INDICATE IN YOUR LETTER IF IT IS A HAGUE CONVENTION CASE OR NOT. WE SUGGEST THAT YOU SEND A COPY OF THE LETTER TO THE SPONSOR.**

Thank you for your prompt attention and co-operation in this matter.

Officer
Case Processing Centre
Mississauga, Ontario

APPENDIX G
SAMPLE OF SPONSORSHIP APPROVAL LETTER CPC-M SENDS TO THE SPONSOR-ADOPTION CASES

(See Section 10.4)

CASE PROCESSING CENTRE
P0 BOX 6100, STATION A
MISSISSAUGA, ONT
L5A 4H4

CLIENT NO.:
KIT ID NO.:
DATE:

SPONSOR'S NAME
ADDRESS

This letter refers to the Application to Sponsor a Member of the Family Class you submitted on behalf of the child(ren) you intend to adopt or you have adopted. Details of your application have been forwarded to the following Visa Office:

VISA OFFICE
ADDRESS

In order to satisfy Immigration Regulations, we have requested a "No-Objection/No-Involvement" letter (non-Hague adoption case), or a Notification of Agreement to the adoption proposal (Hague adoption case) from the child welfare authority of your province. The responsible Ministry will issue the appropriate document only after Provincial requirements have been met. You will be contacted directly by the provincial authorities should they require additional information.

The approval of your Application to Sponsor a Member of the Family Class establishes that you are qualified to submit an Application to Sponsor a Member of the Family Class. However, it has no validity under the law until an application is submitted abroad, at which time the sponsorship eligibility can be established. The acceptance of your Application to Sponsor a Member of the Family Class is not an indication or guarantee that the child (ren) will be issued an Immigrant Visa(s).

We distribute the overseas application forms for all visa offices. In the next two weeks, you will be receiving an application kit for your child(ren). The application will contain all necessary instructions to apply for permanent residence to Canada. When the kit is received, it must be completed on the child (ren)'s behalf and sent to the visa office. For unnamed adoptions, do not submit the application to the visa office until the child is identified. If you do not receive an Immigrant Application for Permanent Residence within 4 weeks you should contact the Citizenship and Immigration Call Centre (refer to closing paragraph).

The completed application must be submitted to the visa office within two years from the date on this letter or the sponsorship will be closed. You cannot appeal to the Immigration Appeal Division if the sponsorship is closed.

Please note that you should not go to the country where the child(ren) reside(s) for the purpose of bringing the child(ren) back to Canada until an Immigrant Visa has been issued. For your information, an Immigrant Visa can only be issued once the medical and adoption requirements have been met. You or the child(ren)'s guardian will be notified by the Visa Office once the processing is complete and the child(ren) is/are ready to leave for Canada.

As a sponsor you have signed a promise to provide for the lodging, care and support of your relatives in the event that they are unable or unwilling to support themselves.

As indicated on the Application to Sponsor a Member of the Family Class, the period of responsibility will be for 10 years from the date of the child(ren)'s landing in Canada.

Your obligations for your relative(s) during this entire length of time are as follows:

- Provide your relative(s) with an adequate place to live
- Provide your relative(s) with adequate food, clothing and other living expenses
- Provide your relative(s) with financial assistance to ensure that they do not require financial support from any Federal or Provincial assistance program. This includes welfare or social assistance from any Municipal program.

If payments are made to your relative(s) from any Federal, Provincial or Municipal assistance program:

- you have not honoured your obligation as a sponsor
- you may have to repay to the government any benefits received by the relative(s) you have sponsored
- you will not be allowed to sponsor any other relative(s) to Canada.

Normally, this office is not made aware of the progress of applications overseas, therefore, we are not in a position to provide you with an update. All future inquiries should be directed to the visa office.

Please notify this office in writing of any change to your address. Include your client number above with all correspondence. The client number is your personal identification number. This number provides access to information on your file. For your own protection you should not allow any other person to use this number.

This letter will confirm receipt of the processing fee. Please retain this letter for your personal records. **THIS IS THE ONLY COPY THAT WILL BE ISSUED TO YOU**.

If you require further assistance, please contact a Call Centre and be prepared to quote your client number (indicated at the top right of this letter) and your date of birth. The telephone number can be found in the blue pages of the telephone directory.

Officer
Case Processing Centre
Mississauga, Ontario

APPENDIX H

LIST OF COUNTRIES THAT HAVE IMPLEMENTED THE HAGUE CONVENTION ON INTERCOUNTRY ADOPTION

(See Section 10.8)

See our Web site address: http://www.cic.gc.ca/english/about/faq/ask-an5e.html

APPENDIX I
SAMPLE OF LETTER VISA OFFICE SENDS TO THE PROVINCIAL/TERRITORIAL CENTRAL AUTHORITY

(See Section 10.9 and Section 10.10)

Date

CANADIAN EMBASSY

IMMIGRATION SECTION

Provincial Central Authority

Address

Dear Sir, Madam:

Subject: *Child's name, date of birth, country of origin, file number. Prospective adoptive parents' names*

This refers to the application for permanent residence in Canada of "child's name" that "prospective parents names" intend to adopt.

As agreed with your Ministry with respect to the processing of an adoption case governed by the Hague Convention on Intercountry Adoption, please be informed that "child's name" now meets the requirements of the *Immigration Act* and Regulations. We invite you to contact the Central Authority in the child's country of origin and the prospective adoptive parents to initiate the legal procedures for adoption/custody of the child. Please send us your notification of agreement to the adoption proposal if it has not been done already. An immigrant visa will be issued to the child when we receive the travel document and the adoption order, if the child is adopted in the country of origin, or a confirmation that the transfer of the child to Canada has been authorized, if the adoption will take place in your province.

Please be assured that the permanent residence application of "child's name" will receive priority processing.

Yours sincerely,

Visa Officer

c.c. Sponsor

APPENDIX J
MAXIMUM AGE FOR PROVINCIAL CHILD WELFARE AUTHORITY'S INVOLVEMENT IN PLACEMENT OF A CHILD

(See Section 8.1)

Province	Age*
Alberta	18
British Columbia	18
Manitoba	18
New Brunswick	16 (19 if disabled)
Newfoundland	16
Northwest Territories	19
Nova Scotia	16
Ontario	16
Prince Edward Island	18
Québec	18
Saskatchewan	16
Yukon	18

***Note:** once the child has reached this birthday the province will no longer get involved in child's placement*

APPENDIX K

SAMPLE OF FORM IRB/CISR 428 (6/98) - NOTICE OF APPEAL

Immigration and Refugee Board / Commission de l'immigration et du statut de réfugié

Appeal Division

Citizenship and Immigration Client ID No.: _____

Sponsor's Date of Birth: _____ (Day Month Year)

Location where Application for Visa was Made: _____ (Visa Office)

NOTICE OF APPEAL

Section 77 of the *Immigration Act*

_____ (FAMILY NAME) _____ (GIVEN NAMES), Appellant

THE MINISTER OF CITIZENSHIP AND IMMIGRATION, Respondent

I appeal to the Immigration and Refugee Board, Appeal Division, from the refusal of the sponsored application for landing made by:

FAMILY NAME - GIVEN NAME	RELATIONSHIP TO ME	DATE OF BIRTH (D-M-Y)

I was informed of the reasons for the refusal on the ___ day of _____ ,19 , by letter dated the ___ day of _____ ,19

Signed at _____ on the ___ day of _____ ,19 . _____ Appellant

A COPY OF THE REFUSAL LETTER IS ATTACHED ☐

Check the appropriate box:

I wish to have my hearing conducted in English ☐ French ☐

I require the services of an interpreter proficient in the _____ (language/dialect) language (and dialect, if applicable) at the hearing.

MY ADDRESS IS:

_____ (Number and Street) _____ (City) _____ (Province) _____ (Postal Code)

Telephone Number (Residence): ( ) _____ (Area Code) (Work): ( ) _____ (Area Code)

Facsimile Number (Residence): ( ) _____ (Area Code) (Work): ( ) _____ (Area Code)

NOTE: *You have the right to be represented by counsel, at your own expense. You must notify the Immigration and Refugee Board, as soon as possible, of the name and address of your counsel. If you have already retained counsel, please complete the section below.*

I AUTHORIZE THE FOLLOWING PERSON TO BE MY COUNSEL

Name: _____ (Mr. Mrs. Ms. Miss) Occupation: _____

_____ (Number and Street) _____ (City) _____ (Province) _____ (Postal Code)

Telephone Number: ( ) _____ (Area Code) Facsimile Number: ( ) _____ (Area Code)

IMPORTANT:

1. You must file this Notice of Appeal with the Appeal Division Registry of the Immigration and Refugee Board within THIRTY (30) DAYS after the day on which you were informed, in writing, by the Minister of Citizenship and Immigration, of the reasons for the refusal of the sponsored application for landing.
2. If you have not already done so, you must notify the Immigration and Refugee Board as soon as possible, in writing, of the name and address of your counsel. You must also notify the Immigration and Refugee Board immediately, in writing, if you change your address or your counsel. Please send any future correspondence to the Registry of the Immigration and Refugee Board at the appropriate address given on the attached instruction page.

FOR OFFICE USE ONLY

FILED ON:

Version française au IRB/CISR428 (6/98)

IMPORTANT INSTRUCTIONS

You have the right to appeal the refusal of the sponsorship application of your family member(s) to the Appeal Division of the Immigration and Refugee Board, in accordance with section 77 of the Immigration Act.

A Notice Of Appeal is attached for that purpose. This form must be completed in English or in French. Once the form is completed, it must be filed with the Registry of the Immigration and Refugee Board within thirty (30) days after the day on which you were informed, in writing, by the Minister of Citizenship and Immigration, of the reasons for the refusal. Listed below are the addresses of the Immigration and Refugee Board offices and the areas which they serve. Please insure that you file your Notice of Appeal with the Immigration and Refugee Board office which serves the province or territory where you live. This Notice can be filed by mail or by facsimile. It is not necessary to file the Notice in person.

The Immigration Appeal Division Rules require that, wherever practicable, the appellant is to provide a copy of the refusal letter issued by the visa office. If you file the refusal letter together with the Notice to Appeal, the Appeal Division may be able to process your appeal more quickly.

You have the right to be represented by counsel, at your expense. If you are represented, please notify the Immigration and Refugee Board of your counsel's name, address, telephone and facsimile numbers. You must notify the Immigration and Refugee Board immediately if you change your address and/or if the name and address of your counsel changes.

AREA OF RESPONSIBILITY

Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, Ottawa

Office: Montreal

Immigration and Refugee Board
200 René-Lévesque Boulevard West
East Tower, Room 102
Montreal, Quebec
H2Z 1X4
Telephone: (514) 283-7733
Facsimile: (514) 283-0164

AREA OF RESPONSIBILITY

Ontario, Manitoba, Saskatchewan

Office: Toronto

Immigration and Refugee Board
74 Victoria Street
Toronto, Ontario
M5C 3C7

Telephone: (416) 954-1000
Facsimile: (416) 954-1165

AREA OF RESPONSIBILITY

British Columbia, Alberta, Yukon, North West Territories

Office: Vancouver

Immigration and Refugee Board
300 West Georgia Street, 16th floor
Vancouver, British Columbia
V6B 6C9

Telephone: (604) 666-5946
Facsimile: (604) 666-3043

INSTRUCTIONS IMPORTANTES

Vous avez le droit de porter en appel le rejet d'une demande parrainée d'établissement présentée par un parent à la Section d'appel de la Commission de l'immigration et du statut de réfugié, conformément à l'article 77 de la *Loi sur l'immigration*.

Un Avis d'appel est joint à cette fin. Ce formulaire doit être rempli en anglais ou en français **et signifié au greffe de la Commission de l'Immigration et du statut de réfugié dans les trente (30) jours suivant la date à laquelle vous avez été informé, par écrit, par le ministre de la Citoyenneté et de l'Immigration, des motifs du rejet de la demande.** Vous trouverez ci-après les adresses des bureaux de la Commission et les zones qu'ils desservent. Veuillez vous assurer de déposer votre Avis d'appel au bureau de la Commission de l'immigration et du statut de réfugié qui dessert votre province ou territoire de résidence. Vous pouvez déposer votre Avis par courrier ou par télécopieur. Il n'est pas nécessaire de le faire en personne.

Les Règles de la section d'appel de l'immigration **exigent que l'appelant fournisse, si possible, une copie de la lettre de refus émise par le bureau des visas. Si vous déposez votre lettre de refus avec l'Avis d'appel, la Section d'appel peut être en mesure de traiter votre appel plus rapidement.**

Vous avez le droit d'être représenté à vos frais par un conseil. Si vous êtes représenté, vous devez fournir à la Commission de l'immigration et du statut de réfugié le nom, l'adresse et les numéros de téléphone et de télécopieur de votre conseil. **Si vous changez d'adresse ou si le nom et l'adresse de votre conseil changent, vous devez en aviser immédiatement la Commission de l'immigration et du statut de réfugié.**

ZONES DE RESPONSABILITÉ

Québec, Nouveau-Brunswick, Nouvelle-Écosse, Ottawa
Île-du-Prince-Édouard, Terre-Neuve

Bureau : Montréal

La Commission de l'immigration et du statut de réfugié
200, boulevard René-Lévesque Ouest
Tour Est, pièce 102
Montréal (Québec)
H2Z 1X4
Téléphone : (514) 283-7733
Télécopieur : (514) 283-0164

ZONES DE RESPONSABILITÉ

Ontario, Manitoba, Saskatchewan

Bureau : Toronto

La Commission de l'immigration et du statut de réfugié
74, rue Victoria, pièce 400
Toronto (Ontario)
M5C 3C7

Téléphone : (416) 954-1000
Télécopieur : (416) 954-1165

ZONES DE RESPONSABILITÉ

Colombie-Britannique, Alberta, Yukon, Territoires du Nord-Ouest

Bureau : Vancouver

La Commission de l'immigration et du statut de réfugié
300, rue Georgia Ouest, 16e étage
Vancouver (Colombie-Britannique)
V6B 6C9

Téléphone : (604) 666-5946
Télécopieur : (604) 666-3043

APPENDIX L
INSERT FOR REFUSAL LETTER

(See Section 15.5)

The following is a suggested text. Adapt it to the person, voice or style of the refusal letters you send to the family class applicants.

"I am sending a letter to your sponsor notifying him/her of the appeal provisions of the *Immigration Act*. I am using the last known address for your sponsor. It is: *(address of sponsor)*

If this address is not correct, please provide this office with your sponsor's new address immediately. I will re-send the letter to your sponsor at his/her new address."

APPENDIX M
PREPARATION OF STATUTORY DECLARATIONS

(See Section 15.5.2)

1. You always begin a statutory declaration:

   "I, (full name of declarant) of (city and country) do solemnly delcare."

2. Outline your qualifications and duties in the first paragraph. For example:

   "I obtained my degree in medicine from the (name of medical school) in (date). After graduation I trained/worked for (period of time) at(name of institution/place of practice). Since (date), I have been employed by the Department of Citizenship and Immigration as a medical officer (MOF#). I have been on assignment in (country/Ottawa) since (date) as a medical officer of the Medical Section/Immigration Health Services of the (Canadian Embassy, High Commission, Departmental Delivery Network, etc.). I assess the results of Immigration Medical Examinations to determine if applicants are described by paragraph A 19(1)(a) of the Immigration Act. I have personal knowledge of the matters herin attested to".

   3. Close with:

   "And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

   Declared before me at (city & country) this day of A.D. 19__.

   Commissioner for Oaths, Notary, Consul, etc.

   (Name of declarant)"

   4. Refer to attachments in the statutory declaration as "Exhibit A, Exhibit B, etc." For example:

   "Attached hereto and marked as Exhibit "A" is a chest X-ray report about (applicant's name) chest X-ray film, I received from (radiologist/DMP's name)."

   In a blank space on the document mark it as follows:

   "This is Exhibit "A" referred to in the declaration of (medical officer's name) declared before me this _____ (day) of ____ (month and year)."

   Exihibits of more than one page are one exhibit. They need only be marked on one page.

   Note: *Overseas, foreign service officers with consular commissions can witness statutory declarations.*

APPENDIX N

FAMILY CLASS SPONSORSHIPS (See OM OP00-30)

(**See** Section 3.1)

APPENDIX O
NOTIFICATION - MINOR ADOPTIVE CHILD

Name of POE/CIC:

AB Children's Services Tel.: (780) 422-5641 Fax: (780) 427-2048	NU Department of Health and Social Services Tel.: (867) 975-5700 Fax: (867) 975-5705
BC Ministry of Children and Families Tel.: (250) 387-3660 Fax: (250) 356-1864	ON Ministry of Community and Social Services Tel.: (416) 327-4730 Fax: (416) 327-0573
MB Family Services Tel.: (204) 945-6950 Fax: (204) 945-6717	PEI Department of Health and Social Services Tel.: (902) 368-6514 Fax: (902) 368-6136
NB Department of Health and Community Services Tel.: (506) 444-5970 Fax: (506) 453-2082	SK Social Services Tel.: (306) 787-5698 Fax: (306) 787-0925
NF Department of Health and Community Services Tel.: (709) 729-2668 Fax: (709) 729-6382	QC MSSS/SAI Tel.: (514) 873-5226 or 1 (800) 561-0246 Fax: (514) 873-1709
NS Department of Community Services Tel.: (902) 424-3205 Fax: (902) 424-0708	YU Yukon Health and Social Services Tel.: (867) 667-3473 Fax: (867) 393-6204
NWT Department of Health and Social Services Tel.: (867) 873-7943 Fax: (867) 873-7706	

This notification is to advise you that: (please check appropriate box below)

Surname of the child	
First name of the child	
Date of birth of child	
Sex of the child	
Country of citizenship	

☐ The Immigration examination of the above child has been adjourned pursuant to subsection 12(3) of the Immigration Act and will be resumed within a week at the Canada Citizenship and Immigration Centre located at _____.

☐ The above-mentioned adoptive child has indicated a desire to reside permanently in Canada.

The child is to reside at the following address:

Surname of parents First name of parents	
Address: Street	
Address: Apartment	
Address: city	
Address: Postal Code	
Phone number	
Fax number	

cc. *Inland CIC (if this is an adjournment of examination from a POE)*

NHQ/SSG 613-941-9323

Adoptive parents

Citizenship and Immigration

Canada

Chapter OP 4

Overseas Selection and Processing of Convention Refugees Seeking Resettlement and Members of the Humanitarian Designated Classes



This is not a legal document. For precise legal information consult the *Immigration Act*, *Immigration Regulations* and *Humanitarian Designated Classes Regulations*.

April 2000

ACRONYMS and SYMBOLS

AWR	Women at Risk
BCO	Organized Crime Section, CIC
BCZ	Security Review Section, CIC
CAIPS	Computer-Assisted Immigrant Processing System
CG	Constituent groups
CIC	Citizenship and Immigration Canada
CLPR	Country of last permanent residence
CMB	Case Management Branch
CPA	Comprehensive Plan of Action
COA	Canadian Orientation Abroad
CR	Convention refugee
CRDD	Convention Refugee Determination Division
CSQ	Certificat de Sélection du Québec (form of the MRCI)
DFAIT	Department of Foreign Affairs and International Trade
DMR	Destination Matching Request
DMP	Designated Medical Practitioner
EMNA	Enfant mineur non-accompagné
FC	Family Class
FCC	Federal Court of Canada
FTS	Fast-track (protection) cases
GAR	Government-assisted refugee
G5	Group of Five (refugee sponsorship group category)
HDCR	Humanitarian Designated Classes Regulations
ICCPR	International Covenant on Civil and Political Rights
ICO	Immigration Control Officer
ICRC	International Committee of the Red Cross
IOM	International Organization for Migration
IRB	Immigration and Refugee Board
JAS	Joint Assistance Sponsorship
LINC	Language Instruction for Newcomers to Canada
MRCI	Ministère des Relations avec les Citoyens et de l'Immigration (Québec)
NAT	Notification of Arrival Transmission
NGO	Non Governmental Organization
NHQ	National Headquarters, CIC
PAIR	Programme d'accueil et d'installation des réfugiés
PAP	Pre-approved Plan
PAQ	Pre-Application Questionnaire
POE	Port of entry
RAP	Resettlement Assistance Program
RHQ	Regional Offices
ROLF	Right of Landing Fee
RRF	Refugee Resettlement Form (UNHCR)
RRM	Refugee Resettlement Model
SAH	Sponsorship Agreement Holder
SLO	Security Liaison Officer

SIQ	Service de l'Immigration du Québec
SPO	Service Provider Organization
SRD	Refugees Branch, CIC
SRE	Resettlement Division, CIC
SRK	International Liaison Division, CIC
SRO	Asylum Division, CIC
SRS	Refugee Program Support Division, CIC
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestinian Refugees in the Near East
WINOR	Witnesses in Need of Relocation

References to the Immigration Act and Regulations are indicated by the letters A and R, respectively, followed by the section and sub-section letters or numbers, as applicable: e.g. A 2(1), A 3 (g); R 2(1).

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1 INTRODUCTION

1.1 What is this chapter about?

This chapter gives an outline of Canada's refugee policy, defines basic terms and provides guidelines for processing applications from Convention refugees seeking resettlement and members of the Humanitarian Designated Classes (Country of Asylum and Source Country Classes) overseas.

This January 2000 update is the first major revision of the procedures in over a decade. It reflects some significant policy shifts which are in keeping with the legislative review and the Refugee Resettlement Model project.

1.2 Background

Over the past fifty years, the people and government of Canada have excelled in providing humanitarian assistance to people fleeing persecution in their homeland or displaced by conflicts. Since World War II, Canada has resettled over 650,000 Convention refugees and persons in refugee-like situations.

In 1986, the United Nations High Commissioner for Refugees (UNHCR) awarded the Nansen Medal to the people of Canada for their sustained efforts in assisting displaced and persecuted people and for helping refugees resettle in Canada.

Each year, the federal government makes a commitment to resettle refugees under the Annual Refugee Resettlement Plan, which forms part of the overall Annual Immigration Plan. In addition to government efforts, the private sponsorship program enables incorporated organizations and groups of individuals to assist refugees and other persecuted people to rebuild their lives in Canada. The sponsored individuals must be Convention refugees (CR) seeking resettlement or members of the Country of Asylum (RA) or Source Country (RS) Classes introduced in the new *Humanitarian Designated Classes* (HDC) *Regulations*, which became effective in May 1997.

Canada has chosen to protect persons for humanitarian reasons, to meet our international responsibilities, and to respond to international crises. The protection of persecuted persons is based on the recognition of human rights; it is inseparable from the idea of human rights. Canada has entered into a number of international human rights agreements, which carry with them certain obligations. By keeping our international obligations and acting in a humanitarian way, we are advancing the national interest in building a peaceful and purposeful global society.

Refugee processing overseas is very different from the processing of any other category of immigrants. If they were given a choice, most refugees would prefer to return home to re-establish their lives in a familiar culture, among friends and relatives. They apply to go to Canada because it is not safe for them to return home, and they have run out of other options.

Citizenship and Immigration's review of current refugee selection and resettlement legislation, policies, and procedures has resulted in a Refugee Resettlement Model (RRM) which places increased emphasis on the protection of refugees and people in refugee-like situations. The policy review is based on four main changes to existing policy:

- relaxing the requirement that refugees be able to resettle themselves within a year;
- making a more concerted effort to facilitate the reunion of families;
- developing a closer relationship with non-governmental partners; and
- ensuring the immediate entry into Canada of urgent protection cases.

Greater flexibility in selection and processing is an integral element of any system which aims to protect refugees. A combination of flexibility in the application of administrative procedures and greater transparency, consistency and clarity in making deci-

sions and in carrying out resettlement is intended to improve the effectiveness of the Refugee and Humanitarian Resettlement Program.

Decisions on applications to immigrate, in contrast, are based on economic, social and cultural objectives designed to serve Canada's national interests in addition to the interests of the applicants.

1.3 What are Canada's obligations under the 1951 Geneva Convention relating to the Status of Refugees, and what commitments has Canada made as a result?

In 1969 Canada signed both the 1951 Geneva Convention relating to the Status of Refugees and the 1967 New York Protocol. These international instruments oblige Canada to protect refugees on its territory. This is why we have a refugee determination system in Canada.

Canada has made a commitment to resettle refugees from overseas for humanitarian reasons. This is why we have the Refugee and Humanitarian Resettlement Program. Having implemented the program, we must ensure the fairness of all facets of its administration and procedures.

1.4 Policy objectives

The objective of Canada's Refugee and Humanitarian Resettlement Program is to uphold our humanitarian tradition (A3(g)).

Resettlement of Convention refugees (CR) and of members of the Country of Asylum (RA) and Source Country (RS) Classes designated in the *Humanitarian Designated Classes Regulations* has three basic aims:

- protection;
- international burden-sharing; and
- provision of a durable solution.

Humanitarian Designated Classes are created for persons in "refugee-like" situations where the admission of these individuals would be in accordance with Canada's humanitarian tradition.

1.5 What is resettlement?

Resettlement is both an instrument of protection and one of the three durable solutions to refugee situations. The other durable solutions are repatriation and local integration in a country of first asylum. Resettlement occurs when a refugee in a country of asylum is accepted for permanent resettlement in a third country, such as Canada. It is a limited, but vitally important, remedy to refugee situations. As an instrument of protection, resettlement remains the ***best*** solution for some refugees.

Refugees for whom resettlement is an instrument of protection include those in need of urgent protection and who have been identified as being members of vulnerable or 'at risk' groups such as women at risk, survivors of torture and victims of violence. Resettlement forms a durable solution for persons who may have extreme difficulty in integrating locally in the country of first asylum, and who cannot return to their country of citizenship or habitual residence. Canada also looks sympathetically at reunifying family members of refugees in Canada and keeping refugee families together, in accord with the humanitarian principle of family reunification found in the Convention. You should not split families.

Resettlement may also be used as a 'burden sharing' mechanism by which countries such as Canada facilitate moderate resettlement of refugees from countries of first asylum. These countries host hundreds of thousands, and in some cases millions of refugees over long periods of time, incurring in the process tremendous stresses and strains on the resources, environment and social fabric of their societies.

Resettlement is often viewed as the least preferred durable solution. It often uproots refugees from a cultural, linguistic, ethnic and religious context that they may have been able to maintain in an asylum country near their country of nationality. It is an expensive and time-consuming response to the situation of persecution and exile.

1.6 Who is a Convention refugee seeking resettlement?

A 2(1) defines a Convention Refugee. The definition is based on the 1951 Geneva Convention and its 1967 Protocol.

The definition reads as follows:

> "A Convention refugee is any person who,
>
> a) by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,
>
> (i) is outside the country of the person's nationality and is unable or, by reason of that fear, is unwilling to avail himself of the protection of that country, or
>
> (ii) not having a country of nationality, is outside the country of his former habitual residence and is unable, or by reason of that fear, is unwilling to return to that country, and
>
> b) has not ceased to be a Convention refugee by virtue of sub-section (2),
>
> but does not include any person to whom the Convention does not apply pursuant to section E or F of Article 1 thereof, which sections are set out in the Schedule to this Act."

A 2(2) describes persons who are no longer Convention refugees:

> "a) the person voluntarily reavails himself of the protection of the country of his nationality;
>
> b) the person voluntarily reacquires his nationality;
>
> c) the person acquires a new nationality and enjoys the protection of the country of that new nationality;
>
> d) the person voluntarily re-establishes himself in the country that the person left, or outside which the person remained, by reason of fear of persecution; or
>
> e) the reasons for the person's fear of persecution in the country that the person left, or outside of which the person remained, cease to exist."

Persons described in sections E or F of Article 1 of the Convention, that is, persons recognised by the competent authorities of the country in which they reside as having the rights and obligations which are attached to the possession of the nationality of that country, or persons who have participated in acts of extreme or unwarranted violence and may have committed crimes against humanity or serious non-political crimes are excluded from consideration as Convention refugees.

Immigration Regulation 2(1) defines 'Convention refugees seeking resettlement'. To be eligible for resettlement in Canada a person who meets the Convention refugee definition:

- must be outside Canada,
- is not likely to repatriate voluntarily in the near future,
- is not locally integrated in the country of asylum, and
- does not have another offer of resettlement.

See Section 6 for details on determining eligibility.

1.7 Who is a member of the Country of Asylum Class (RA)?

HDCR 1 defines the *Country of Asylum Class (RA)* as persons who have been and continue to be seriously and personally affected by civil war, armed conflict or massive violations of human rights and for whom there is no possibility, within a reasonable period of time, of a durable solution other than resettlement in Canada. Individuals selected under this category must be outside their country of citizenship or habitual residence. They must be privately sponsored (RA3), have adequate financial means to support themselves and their dependants (RA4), or have a Joint Assistance Sponsorship (RA5).

1.8 Who is a member of the Source Country Class (RS)?

HDCR 1 also defines the Source Country Class (RS). This classification applies to individuals residing in their country of citizenship or habitual residence. It includes those who have been and continue to be seriously and personally affected by civil war or armed conflict, those who have suffered from a serious deprivation of their right of freedom of expression, right of dissent or right to engage in trade union activity and have been detained or imprisoned as a consequence, and those who fear persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. For members of this class, there must be no possibility, within a reasonable period of time, of durable solution other than resettlement in Canada. Individuals selected under this class may be under either government assistance (RS1), private sponsorship (RS3), have adequate financial means to support themselves and their dependants (RS4), or Joint Assistance Sponsorship (RS5).

Schedule 1 of the HDC Regulations lists the countries whose nationals would be admissible for Source Country classification. It is established and revised annually. The current list appears in APPENDIX A.

1.9 What measures exist for Stateless persons?

Some refugees are in fact stateless. Stateless persons include the *de jure* stateless, defined as a person "who is not considered as a national by any State under the operation of its law", and the *de facto* stateless, which refers to those persons "with an ineffective nationality or those who cannot establish their nationality".

The *de jure* stateless category may include children who did not acquire a nationality by birth as a result of being born to a stateless person, or someone who loses his or her nationality through marriage and does not acquire another one. Some may have been born in a State which no longer exists and have not been able to acquire citizenship in the State which succeeded it. Others may have lost their nationality or been divested of it. The *de facto* stateless category refers to those persons "with an ineffective nationality or those who cannot establish their nationality" - that is, persons with a nationality of a State from which they can derive no benefits or protection. These distinctions may seem academic to the persons in these positions, as they are for practical purposes the same situation.

Statelessness and refugee status are not identical. Article 1A(2) of the Convention relating to the Status of Refugees makes separate provisions for refugees with a nationality and those without one in the phrase: "[any person]... not having a nationality and being outside the country of his former habitual residence.. is unable. or unwilling to return to it".

Some refugees may be deprived of or renounce their nationality, but for many the formal link with the country of nationality remains.

Article 1D of the Convention relating to the Status of Refugees states that:

> "This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or

assistance has ceased for any reason, without the position of such persons being definitively settled ... these persons shall ipso facto be entitled to the benefits of this Convention."

This section was designed to cover the situation for example of the Palestinians who receive assistance from the United Nations Relief and Works Agency (UNRWA).

The conventions concerning stateless persons are available on the UNHCR Web site **(http://www.unhcr.ch)**

- Convention relating to the Status of Stateless Persons of 28 September 1954.
- Convention on the Reduction of Statelessness of 30 August 1961

Canada is a signatory to the Convention on the Reduction of Statelessness.

2 THE ANNUAL RESETTLEMENT PLAN

2.1 What is the refugee resettlement target?

A7(1) requires the Minister to place an annual immigration plan before Parliament each year. This plan must include a refugee resettlement component which provides an estimate of the number of Convention refugees and members of the Humanitarian Designated Classes Canada will receive in a given year.

The resettlement component includes Convention refugees and members of Humanitarian Designated Classes who are government assisted as well as those who are privately sponsored (see APPENDIX B for a complete list of the official document coding for each of these categories).

The government-assisted component is expressed as a number. The private sponsorship component is expressed as a range, with minimum and maximum figures (see APPENDIX C).

2.2 How is the refugee resettlement target set?

Advice from the UNHCR, NGOs, the International Region of CIC and Canadian visa offices regarding the number of refugees in need of resettlement helps determine the resettlement plan. Provincial views and the anticipated number of private sponsorships also influence the plan.

The in-Canada regions participate in an exercise similar to that of the visa offices abroad for setting the distribution of the target within Canada. Financial resources are approved for regions to provide income support and a range of immediate essential services for government assisted refugees. The level of financial resources transferred to regions is based upon annual targets established for each province. These resources come from fixed resources called the Resettlement Assistance Program (RAP).

2.3 How is a mission allocation set and managed?

Once the overall resettlement target is set and the number of government assisted refugees determined, comments are requested from visa offices, geographic divisions and le Ministère des Relations avec les Citoyens et de l'Immigration (MRCI) of Quebec. Individual visa office targets for government assisted refugees are then established. The Immigration Program manager at each visa office is responsible for achieving its allocated government-assisted refugees target.

Visa offices do not have targets for privately-sponsored refugees.

2.4 Missions without allocations

Missions without allocations may nevertheless identify refugees in need of resettlement. When you receive a case which meets Canada's criteria (see Section 6 and Section 7), you should contact the Resettlement Division (SRE) Matching Centre, with a copy to the appropriate geographic desk in the International Region. (The Matching Centre is not a physical location. It refers rather to the process of coordinating the logistics of bringing a refugee to Canada, including identifying the most appropriate destination in Canada, identifying sponsors where necessary, and organizing travel arrangements from overseas to the final destination.)

Give a brief description of the case, including information about the applicant's refugee story and why you believe acceptance is warranted. Once a place is granted, you should send a Destination Matching Request (DMR) and Notification of Arrival Transmission (NAT) (see Section 15 and Section 16 for details of the procedures and format to follow).

2.5 Managing departures

It is critical that the flow of refugee departures be evenly distributed throughout the year. Settlement and reception services in Canada are severely strained by a large number of refugee arrivals in Canada at one time.

Missions should plan refugee selection and departures in order to maintain a relatively even flow of refugee arrivals over the course of the year (see Travel Guidelines in APPENDIX N). Uneven flows, departures from the established annual targets and departures from the planned arrivals schedules can severely strain or even overtax the RAP infrastructures and resources designed to assist resettlement. This is a serious challenge to missions but is critical as RAP has little flexibility to cover departures from the annual planning and budget exercise.

3 APPLICANT REFERRAL

3.1 Referrals from the UNHCR

The Office of the United Nations High Commissioner for Refugees (UNHCR) is the international organization responsible for protecting refugees. In most cases, this can be done successfully in a country of first asylum. Resettlement in a third country, however, is the only effective means of protection for some refugees. Visa offices are encouraged to work closely with the local offices of the UNHCR in order to identify individuals in need of resettlement.

The UNHCR refers only Convention refugees to visa offices. Some of these applicants may be in possession of a letter or document from a UNHCR field office which may indicate that the individual has been determined to meet the Convention refugee definition, or that he or she falls under the UNHCR mandate. In either circumstance, the individuals concerned are considered to be refugees by either the country of first asylum or the UNHCR. The UNHCR may also refer persons "of concern." This term includes displaced persons whom the UNHCR is assisting, as well as returnees. You must consider in each case whether the person meets the basic Canadian requirements for resettlement which are common to all three classes (Convention refugee seeking resettlement, Country of Asylum Class or Source Country Class).

A referral to you by the UNHCR is evidence that it has assessed the situation and concluded that resettlement is the best option in this case. In assessing the need for resettlement, you should give considerable weight to a referral from the UNHCR. You should make note of any such referral in your interview notes.

Although the UNHCR is an important partner on whom we rely for pre-screening referrals, there is no authority in the *Immigration Act* or *Regulations* that allows you to require a refugee applicant to have a UNHCR resettlement recommendation.

For more information on the UNHCR's resettlement policy and programs, consult the UNHCR Resettlement Handbook (a copy of which can be found in all visa offices), and the UNHCR Web site. This valuable source of information is located at http://www.unhcr.ch

3.2 Referrals from other international agencies and NGOs

Other international agencies and non-governmental organizations (NGOs) may refer applicants. You should establish working relationships with reputable organizations, and encourage referrals from them, as they can be helpful in identifying refugees in need of resettlement. When assessing an applicant's eligibility, you should consider relevant information from the referring group. You may wish to encourage such groups to assist with case preparation by completing applications and collecting relevant case documentation. This information will assist the visa office in making a complete and fair assessment. They may be also able to help arrange medical examinations if the International Organization for Migration (IOM - see Section 18.2) is not at your location.

It is very beneficial to develop and maintain good working relationships with NGOs within Canada and abroad. Human rights agencies, faith groups, development agencies, etc. are often aware of persons in urgent need of resettlement as a means of protection. They may make resettlement recommendations and can assist the visa office in the process of identification, case preparation and, quite often, sponsorship. You may also receive letters from NGOs in Canada recommending that someone be interviewed for resettlement.

(See also Section 18 on Relations with International Agencies.)

3.3 Providing information to potential referral agencies

In your community relations and outreach activities, you are encouraged to provide referral agencies with information about Canada's resettlement programs. It allows them to:

a) determine whether they wish to refer an individual for resettlement to Canada;

b) learn what criteria will be used in assessing the application;

c) know what documents to submit with an application;

d) know the processing times at your visa office; and

e) identify how and where to submit a referral.

Mission feedback indicates that efforts to establish and maintain ongoing contacts with referral agencies, including general follow-up on referrals, proves enormously valuable in ensuring a regular flow of applicants who are more likely to meet Canada's resettlement criteria. See APPENDIX E for a sample information sheet for referral agencies, or other organizations or persons seeking information on the criteria of the resettlement program.

3.4 Referrals from private sponsors

R 7.1 permits private groups to sponsor the applications of refugees and those in refugee-like situations. These private groups can be either:

- a group of five or more Canadian citizens or permanent residents; or
- a corporation which has entered into a sponsorship agreement with the Minister, or the corporation's constituent groups. These corporations are known as Sponsorship Agreement Holders (SAHs).

Private sponsors may sponsor both named (sponsor referred) and unnamed (government referred) refugees, or refugees referred by other agencies, and may sponsor refugees with family links in Canada. These named sponsorships are generally intended to reunite refugee families which have been split. Such cases can qualify more readily under the RA and RS Classes and should be assessed under RA criteria and RS criteria where the latter applies. You should encourage sponsors to provide relevant background information on the eligibility and admissibility of the referral, on the community profile of the sponsoring group and on the arrangements for the reception and settlement of the individual or family.

3.5 Self-referrals

Persons who have not been referred by the UNHCR or any other agency, or who have no private sponsor, are termed "self-referrals." They may present themselves in person or in writing for consideration for resettlement. Please see Section 4 for details concerning how you should handle such requests.

4 THE APPLICATION

4.1 Who may apply?

Persons referred by the UNHCR or other agencies, those named by sponsors in Canada, and individuals or their agents enquiring at the visa office directly on their own initiative (i.e., so-called "self-referrals", also self-selected or self-identified refugee applicants) may all request an application. As a result of the *Choi* decision, visa offices are advised not to refuse to provide an *Application for Permanent Residence in Canada* (IMM 0008) form to persons seeking resettlement in Canada who ask for one.

You must deal openly with all clients, and give them all pertinent information on how to apply. As a result of the *Choi* decision, you must not give preferential treatment to applicants who are sufficiently well-informed to know that they can ask for an immigration application.

You must provide an application to all who ask for one even where you believe that the person will not be successful.

Clients apply by completing an IMM 0008 form and any other documents that you need to make a determination.

4.2 What if the applicant is applying in a country that is a signatory to the Convention or the Protocol?

The following should be considered interim guidance in this developing policy area. A more detailed and formal policy on applications for resettlement from refugees located in signatory countries which are considered to have fair and effective protection regimes is being developed.

That applicants are living in a country of first asylum which is a signatory to the Convention and/or to the 1967 Protocol does not affect your obligation to provide an application form to those who request one.

As of August 1999, 134 countries had signed both the Convention and the Protocol, and another four had signed either one or the other (see the complete list in APPENDIX F). Both the Convention and the Protocol establish fundamental rights for refugees, such as non-refoulement (protection from forcible return) and asylum, as well as particular rights and standards of treatment for refugees in countries of asylum. The degree to which countries have implemented the standards outlined in the Convention and the efficacy of refugee protection regimes established in signatory countries varies greatly, however, in their scope and effectiveness. This variation occurs partly because of the numerous reservations made by States to different Articles relating to standards of treatment outlined in the Convention, partly because various Convention Articles have not been enacted in domestic legislation and partly because though enacted they may not be enforced or otherwise put into practice.

The *Immigration Act* does not distinguish between countries which do not live up to their protection obligations under the Convention, and those with fair and effective determination systems that provide effective protection, and which adhere to the fundamental human rights and the expected minimum standards of treatment of refugees, so that integration or local resettlement is a viable option. In practice CIC takes this factor into account in establishing targets and in making allocations to visa offices.

In the absence of compelling reasons, CIC refugee resettlement targets are not normally assigned to missions in countries which live up to their refugee protection obligations. When CIC *does* assign targets to missions in such countries, it is generally for reasons related to burden-sharing, as in the recent cases of the Bosnians in Germany and the Kosovars in Albania and Macedonia.

In evaluating applications for resettlement from refugees located in asylum countries which have effective protection regimes, you may wish to look closely at the application of the definition of durable solution found in the *Immigration Regulations, 1976.*

Subsection (b) in particular refers to resettlement in the country of asylum. In this context 'resettlement in the country of asylum' should be interpreted in the same way as the durable solution of 'local integration'. This means the local settlement and integration of refugees in the country of first asylum so that they can live independently with human and civil rights such as the right to marry, practice one's religion, own property, work (and thereby participate in the local economy and support themselves and their family) and have access to education, housing etc. as laid out in the Convention.

Remember that some countries have registered reservations about one or more of these Articles. Refugees in countries of asylum which provide these, or similar, rights are generally considered to have effective protection and are not in need of further or other protection such as third country resettlement unless they have a credible claim of persecution against the country of asylum itself (e.g. the country of asylum is engaging in persecution or is unable or unwilling to provide protection to the individual who is persecuted by others for Convention grounds). Genuine cases of need for resettlement from persecution in countries of asylum with effective protection systems, while they may exist, are considered to be relatively rare.

It is important to remember that Canada's refugee legislation operates independently of protection regimes established in other countries, even in countries which provide effective asylum. As well, Canada's resettlement programs differ from those in effect elsewhere, and often have broader criteria. For example, our Country of Asylum Class criteria are not used by other countries, nor may they fully share the importance Canada places on programs such as *Women at Risk*. The increased emphasis being placed on family reunification as a fundamental humanitarian principle found in the Convention, and one which is key to our current and future policy direction, means that this particular category of cases should be examined with a somewhat greater than normal degree of flexibility wherever the applicant is located.

It is also important to know whether a signatory country has signed Regional Instruments relating to the treatment of refugees on its territory. These instruments set out minimum standards of treatment expected of governments.

4.3 What if the applicant submits an application in a country that has no target allocation?

The resettlement program is a universal one which is in effect at all visa offices. That a target has not been allocated to a particular visa office does not mean the resettlement program does not apply or is not in effect there. Targets are allocated to visa offices where the needs are perceived to be greatest, but an application may be submitted at any post. If you are at a post that has no allocation and receive an application which you believe has merit, you may request a space by contacting SRE following the procedures outlined in Section 2.4.

4.4 Establishing processing priorities

The first come, first served, principle which applies to non-refugee immigration interview queues, or inventories, is not applicable to refugees because the protection-based nature of the resettlement program makes this particular immigration stream fundamentally different from the other classes.

The visa office resettlement processing system must be both flexible and sensitive to humanitarian needs and individual predicaments. Consequently, within the various refugee queues, however they may be configured (sponsored refugees, unsponsored refugees, Country of Asylum Class, Source Country Class etc.), priority should be given as follows:

- Priority 1: Cases identified as being in need of urgent protection (see Section 11.3).
- Priority 2: Cases where the applicant appears to be a member of vulnerable or 'at risk group' taking into consideration both groups mentioned in this chapter and groups identified by the visa office (see Section 11).

- Priority 3: Cases identified by the UNHCR and privately sponsored cases (see Section 9), unless such cases fall into one of the preceding categories.
- Priority 4: Other cases (self-identified or 'walk-in' cases not described above).

Immigration program managers should therefore regard applications in the refugee category as distinct from other immigration applications in terms of such work elements and functions as screening applications, scheduling interviews and processing approved cases, and make any required processing changes to accommodate these differences. Advancing cases in the queue based on identified priorities is not 'queue jumping'.

4.4.1 Best practices in managing resettlement case loads

Efficiency and effectiveness in selecting refugees is achieved through a combination of factors, including:

- pre-selection or pre-screening,
- careful internal/organizational structuring,
- capacity to innovate, and
- broader measures to ensure the productive deployment of visa office resources.

Best practices in pre-selection or pre-screening include having a visa officer pre-screen all applications as soon as they are received in order to identify priority cases. Using a Pre-Application Questionnaire (PAQ), or paper screening on the basis of a completed application (see Section 4.5 and following below), can help ensure that only cases which meet minimum criteria, and which therefore have a reasonable chance of being accepted, proceed to interview. Interview waivers, refusals and identification of priorities for the interview schedule are all possible results of good pre-screening procedures.

Various possibilities exist for managing technical and organizational structures. Having a refugee processing unit, or a refugee coordinator in smaller offices, can result in efficiencies and effectiveness such as the development of areas of expertise in country conditions and increased consistency in decision making. Clearly defined individual case management processing standards regarding all components of processing elements provide benchmarks and boundaries for determining when a case needs special attention (for example, different standard times for bringing forward (BF) files for different situations and for average case processing times). Such individual case file management guidelines are helpful when a check is made of total cases in process, such as a CAIPS run.

Capacity to innovate refers to practices that go beyond normal procedure and which make sense in light of refugee directions or broader immigration program goals. Outreach to non-traditional refugee service organizations as a means of diversifying referral intake and developing and expanding contact and information networks would be an example of innovation. Posting processing standards or acceptance and refusal rates for different categories on a Web site, however, is a common service practice for clients and stakeholders.

It is also important that immigration program managers remain flexible enough to respond to exceptional refugee situations. Without limiting the generality of this statement, one example at the individual case level would be where there is good reason to believe that an applicant would be at risk if she or he appeared in public or attended an interview at the visa office, yet an interview is nonetheless deemed to be required. Consideration should be given to holding the interview at an alternate location, while fully assuring the personal security of visa officers.

You should consult the International Region *Reporting and Liaison Handbook* concerning reporting to NHQ on issues relating to refugees and/or resettlement.

4.5 What to look for when paper screening applications

When you are paper-screening a refugee application you cannot screen out cases solely on admissibility elements. Because protection is the cornerstone of the resettlement program, you must examine eligibility and assess whether any fears the applicant expresses are well founded. As the IMM 0008 form currently in use does not contain a section on eligibility, you will need to attach a questionnaire eliciting this information to each application. SRE can provide assistance in this respect. Should case decisions be challenged in court, a well-constructed questionnaire is important for the legal defensibility of the process used.

Applicants may not know or understand the definition of a Convention refugee. They may not be aware of the criteria for the Country of Asylum or Source Country Classes. It is therefore important to be sensitive to how they express themselves. When paper screening applications, you should consider applicants under ALL refugee and humanitarian programs and apply the same processing procedures, starting with the lowest common denominator in all cases. In other words, you are encouraged to consider in each case whether the applicant meets the basic Canadian requirements for resettlement, and then determine under which class to process the case (Convention refugee seeking resettlement, Country of Asylum Class or Source Country Class). For example, in sponsored cases, the RA3 criteria should be applied before CR3 criteria. You should examine the following features:

- Country of citizenship or habitual residence: to qualify as a Convention refugee seeking resettlement or as a member of the Country of Asylum Class, an applicant must be outside his or her country of nationality or former habitual residence. Applicants under the Source Country Class must be living in their country of nationality and that country must be listed in Schedule I of the *Humanitarian Designated Classes Regulations* (see APPENDIX A).
- Vulnerable groups: applications from persons needing protection on an urgent basis, women meeting the description of the woman at risk program, persons in ongoing precarious situations, victims and witnesses of violence, survivors and witnesses of torture or other trauma, and those in danger of refoulement, are high priority cases ("refoulement" is forcible return to the country in which an individual's life or freedom would be threatened). Refer to Section 11 for further details on special needs cases.
- Links to Canada: in making your decision, keep in mind that the presence of relatives or of a sponsoring group in Canada will substantially enhance a refugee's ability to establish her- or himself more quickly. You should also look for other links to Canada such as education or work experience. Such connections to Canada generally indicate better potential to establish oneself.

For applicants who apply as Convention refugees seeking resettlement or members of the Country of Asylum and Source Country Classes, only the principal applicant and accompanying dependants need meet the regulatory requirements; i.e., completing IMM 0008, security and criminal checks, Medicals etc. (reference R7(1)).

You must inform applicants that should family members choose not to accompany them, they may jeopardize their chances of resettlement with the family. If they do not comply with regulatory requirements and are found inadmissible, they may become permanently separated from the rest of the family. See Section 6 for details on processing requests from applicants with extended families.

4.6 How do you refuse when paper screening applications?

When paper screening, you should consider applicants under ALL refugee and humanitarian programs and apply the same processing procedures in all cases. In other words, you are encouraged to consider in each case whether the applicant meets the basic Canadian requirements for resettlement, and then determine under which class

to process the case (Convention refugee seeking resettlement, Country of Asylum Class or Source Country Class).

You may refuse an IMM 0008 application on paper screening when you believe it is clear that an applicant would be refused at interview. You must however apply the principle of procedural fairness in all cases (refer to OP 1, Section 10). For example, ineligible applicants (i.e., those still in their country of citizenship or habitual residence, provided the country is not in the Source Country Schedule of the HDCR) can be refused at pre-screening because they are clearly not Convention refugees seeking resettlement or members of the Source Country or Country of Asylum Classes. You must document the reasons for your conclusions on the file, and include in the refusal letter a detailed explanation why the applicant does not meet program requirements. Any information an applicant provides in response to the refusal letter must be given due consideration. You must maintain the applicant's further information and your additional response on file.

4.7 Who should be interviewed?

There is no requirement under the law to interview any refugee applicant. Normally, however, all applicants who pass pre-screening are interviewed. It is not easy to decide if they meet eligibility and admissibility criteria without an interview. Even if they appear to meet the criteria, their credibility may be in question. An interview allows you to elicit information which may not be available on the paper file, to assess the plausibility of an applicant's story, and to identify any special needs the applicant may have.

This advice also applies to interviewing persons with private sponsorships, or those referred by the UNHCR or other organizations. Case material provided by the UNHCR, or similar material provided by sponsors or other reputable NGOs will enable you to focus your interview on Canada's eligibility and admissibility criteria.

4.8 When should an interview be waived?

In circumstances involving emergency protection, such as an immediate threat to safety or life, you are strongly encouraged to waive an interview if interviewing would delay processing in any way. It is essential to deal with the application as quickly as possible and move the applicants immediately. The use of Minister's permits is encouraged in such situations. Written information in support of the application must be sufficient to support a positive determination of eligibility and admissibility. If an applicant has been referred by the UNHCR or another organization, request detailed information regarding the refugee's story and the danger to the applicant.

In other less urgent situations, where the application is full and complete and the information is not in doubt, you should consider waiving interviews. This consideration may apply especially where the country conditions are well understood and excellent relationships have been established with referral organizations such as the UNHCR and other major reputable international organizations which you know to be credible.

4.9 Interview notes

File notes for refugee cases, as for all other types of cases, need to be well organized, clear, concise, relevant and comprehensive. They form a part of the official permanent case record which is subject to Access to Information requests and which may be accessed by CAIPS users such as the Minister's Office, Case Management Branch, Immigration Call Centres and other visa posts using remote access capability without your knowledge. Your notes may also be required should a case proceed to the Federal Court of Canada for judicial review (see Section 19.2). For these reasons it is important that your notes be clear. They should not only be well organized in structure and address all relevant points concerning the basis of your decision, but also not contain immigration jargon that may require additional enquiries from users of the notes to understand what you were trying to communicate.

4.10 Using a Pre-Application Questionnaire (PAQ) versus using an Application (IMM 0008)

Screening refugee Pre-Application Questionnaires (PAQs) and paper screening refugee immigration applications are separate and distinct processes. They are subject to different requirements which result in fundamentally different consequences.

The PAQ is a locally created document and not an officially prescribed form. When creating a PAQ, you should seek advice from SRE or at least have it vetted for comprehensiveness.

4.10.1 Background

If large numbers of refugee applicants approach your visa office directly, having them complete informal PAQs may help you identify priority cases. If so, you must add a sheet to the Questionnaire and IMM 0008 to allow applicants to explain the details of their story. You should also ask the UNHCR for a copy of their Refugee Referral Form (RRF) which outlines the details of an applicant's claim.

The use of PAQs may help a mission to identify and focus resources on those cases which are likely to meet Canada's basic program requirements. The savings in mission time and resources from using PAQs as opposed to IMM 0008 applications may not be great, however, since Convention refugees seeking resettlement and members of the Country of Asylum and Source Country Classes do not pay cost recovery fees, there is no cost advantage to applicants to have them submit PAQs instead of IMM 0008 .

Certain procedures must be followed for the practice of using PAQs to be legally defensible.

4.10.2 When to use an Immigration application (IMM 0008) rather than a PAQ

As a result of the *Choi* decision, you are advised not to refuse IMM 0008 to persons seeking resettlement in Canada who ask for one. You must deal with clients in an open manner and give them all pertinent information on how to apply. You cannot give preferential treatment to applicants who are sufficiently well-informed to know that they can request an immigration application. (A summary of *Choi* may be found on page 673 of *The 1998 Annotated Immigration Act of Canada, Revised Edition* by Marrocco and Goslett and on page 776 of the 1999 version).

When you provide PAQs, you must also advise applicants of the existence of the IMM 0008 so that they can choose whether to proceed by way of the PAQ or the IMM 0008. Refugee candidates, or their representatives or agents, may elect to bypass the PAQ process. They are entitled to do so and should be issued applications for permanent residence.

As a general rule, missions receiving private sponsorships for refugee cases should continue to send the applicants IMM 0008s rather than PAQs, and to interview them.

4.10.3 Information to be included in PAQs

If you decide to develop and use a PAQ, you must include questions that will elicit sufficient comprehensive information to allow a you to make an informed decision regarding whether a prospective applicant meets minimum criteria as a Convention refugee seeking resettlement or as a member of the Country of Asylum or Source Country Classes. You may contact SRE for a list of appropriate questions.

SRE has also developed descriptions of the resettlement program for persons indicating an interest in resettlement as Convention refugees or members of the Country of Asylum or Source Country Classes. These are found in APPENDIX E of this Operations Manual. You are encouraged to use these as an introduction to any locally designed PAQ.

4.10.4 Evaluating and following up completed PAQs

PAQs should be evaluated against the requirements of the Country of Asylum and Source Country Classes programs as well as of the Convention refugee seeking resettlement program. Where the information suggests that applicants meet basic program requirements, an immigrant application should be forwarded to them.

Where the information suggests applicants do not meet the basic requirements of any of the programs, you must send them a letter of discouragement. These letters do not have to include a detailed, tailor-made narrative. You may use a form letter of discouragement, provided it includes a sufficient number of explanations accompanied by boxes to be checked that cover all possible reasons why the applicant appears unlikely to meet Canadian program requirements.

Discouragement letters must also include a notice that, despite the discouragement, the person may nevertheless submit an immigration application.

4.10.5 Procedures to follow when applicants submit further information following a discouragement letter

Administrative fairness requires that if applicants respond to the discouragement letter with additional information, that information must be considered. This consideration may or may not lead to issuing an IMM 0008.

If you do not issue a IMM 0008 on the basis of the new information, you must respond to the person advising that the new information does not change the initial decision. This response may be a form letter, but your case notes concerning the review of the additional information must be explicit.

4.10.6 PAQ case notes and record keeping

You must keep retrievable records of all refugee PAQs. Each record must include the same general information CIC retains on case files: the completed PAQ, the reason for and date of the discouragement decision, the identity of the officer making the discouragement decision, and all actions related to the PAQ process, such as issuance of discouragement letters and any follow-up letters.

The reason(s) you give for the discouragement decision in the file notes may be generic. For example, you may maintain a list of possible reasons from which to select those appropriate to individual cases.

Missions have the flexibility to devise their own systems of record keeping and to decide whether to use CAIPS, or to devise alternative systems. You must, however, use an individual reference number on all correspondence with a PAQ client.

5 INTERVIEWING REFUGEES

5.1 What factors make refugee interviews different from other interviews?

When interviewing refugees be sure to allow applicants sufficient time to tell their stories. Some factors which should be taken into consideration are as follows:

- the applicant's fear of you as an authority figure representing a government;
- the applicant's mistrust of an interpreter who may come from a rival ethnic or tribal group;
- the applicant's difficulty in repeating the story of persecution, particularly if the persecution involved torture, rape, intimidation or humiliation;
- the applicant's reluctance to explain reasons for fear of persecution in front of a spouse, common-law partner or children;
- the applicant's difficulty to provide details of persecution or fear of persecution for reasons related to gender, culture or circumstances (particular sensitivity may be required of male officers interviewing female applicants);
- language and cultural barriers; and
- post-traumatic stress syndrome.

Should you find that the principal applicant does not qualify as a Convention refugee or member of the Country of Asylum or Source Country Class, you must assess the eligibility and admissibility of the spouse, common-law partner and of any dependants. Do not assume that a spouse, common-law partner or a child, particularly an older one, does not have his or her own story to tell. Be sure to give each family member the opportunity to tell her or his story; explore all possibilities. Where any one family member qualifies, that status applies to all other family members.

UNHCR interview notes, if available, may be useful during an interview. Remember, however, that you must make your own decision on eligibility and admissibility in accordance with Canadian legislation and program objectives.

5.2 How should an interview be conducted?

Try to reduce or minimize the effects of the factors listed above by keeping in mind the following points:

- Talking about the reasons for their fear of persecution can be difficult or confusing for applicants. They may find it easier to explain their fear after you have dealt with practical matters such as verifying information concerning their eligibility and skills.
- Applicants may be reluctant to discuss persecution in front of family members and prefer to be interviewed separately.
- If a woman applicant says she has been sexually assaulted, or it is believed she has been, it is best when possible for her to have the choice of a female officer to conduct the interview (refer to APPENDIX G *Declaration on Refugee Protection for Women*). The same principle applies when an interpreter is needed. See Section 11.2 regarding the Women at Risk (AWR) program.
- Few applicants may understand the term "persecution", but should be able to describe specific problems they or other family members have had with military or civil authorities, groups in the community or neighbours, or what has happened to the house or business since they left the country.
- Most applicants will not know the definition of a Convention refugee or Canada's criteria for Country of Asylum or Source Country Classes, nor will they understand the reasons for the questions they are asked.

- Trauma and fear of authority can easily cause applicants to forget or confuse details such as dates, times and the identities of strangers who have attacked or persecuted them.

If you believe an applicant whom you have accepted would need counselling as a survivor of trauma or torture, please advise the Matching Centre at the time the Destination Matching Request (DMR) is sent so preparations can be made with one of the centres for survivors of Torture located in several major cities across Canada (see Section 15).

5.3 Interpreters

Interpreters play an important and integral part in the interview process, so it is necessary to give careful consideration to their role.

CIC has no blanket policy on the use of interpreters in refugee interviews. Before they are engaged to interpret in interviews, it is important to ensure they are informed of and understand the standards of confidentiality and professionalism that are expected. You should give specific instructions regarding the conduct of the interpretation where the interpreter is new, or has worked infrequently for the visa office. If the visa office uses a personal services contract, specify these conditions in it.

You must be completely satisfied that every interpreter is fully fluent in the languages of both the interviewer and the interviewee, and that the translation is correct and free of bias. You should verify this in several ways. Ask the applicant directly whether he or she can understand the interpreter easily, and record your question and the response. Observe the applicant's ability to respond quickly, easily and appropriately to a series of introductory warm-up questions. You should also advise applicants to tell you at any point during the interview if there is anything that they do not understand or if there are any other difficulties. You must be sensitive to the fact that some applicants may not provide a full and complete response if they do not trust an interpreter who may be perceived as being from a rival ethnic, tribal or other group. You must be equally sensitive to the concerns of women refugees who may find it difficult to relate their stories in front of male interpreters and officers. Where possible in these instances use a female interpreter.

It is equally important to instruct the interpreter to provide verbatim translation, and whether you want to have simultaneous word-for-word translation or for him or her to provide interpretation at intervals during the applicant's response. If at any time you are not satisfied for any reason that an interpreter is translating accurately, you should verify your suspicion by rephrasing the answers which have raised doubts, and ask the applicant to confirm that you have understood correctly. If necessary, identify another interpreter or reschedule the interview.

If an applicant appears to speak English or French fluently then he or she should not be required to use an interpreter.

You must record your interview notes in CAIPS, including the interpreter's name and the language used, because many post-interview complaints claim that interpreters misconstrued what was said, or omitted important points, etc.

One best practice is to use visa office employees who speak the language in question, and whose knowledge of the interview process and reliability are known. Where visa office employees are not available, the UNHCR may on occasion be able to lend you one of their interpreters, who are experienced with refugee interviews and have been selected by competition based on language ability. Although it is the least preferred option, you may of necessity have to use relatives, friends of the applicant or hired interpreters.

Visa office practices vary for many reasons. The interview calling letter will advise the applicant whether he or she needs to make any arrangements for an interpreter.

5.4 Recording the interview

Keep detailed notes of interviews. You should include a conclusion with a summary of your decision and a clear statement of how the applicant meets or does not meet the definition of a Convention refugee seeking resettlement or of a member of the Country of Asylum or Source Country Classes. You must enter your notes in the Computer-Assisted Immigrant Processing System (CAIPS), and in a paper file if CAIPS is not available. CAIPS is a key support for monitoring the Refugee and Humanitarian Resettlement Program, and provides important information when cases are appealed to the Federal Court of Canada (see Section 19.2 on Judicial Review).

6 ELIGIBILITY

6.1 When are applicants eligible?

Applicants are eligible when they meet the definition of a Convention refugee seeking resettlement, or are members of the Country of Asylum or Source Country Classes.

Summaries of the definitions of "Convention refugee" (A2(1)) and "Convention refugee seeking resettlement" (R2(1)) appear in Section 1.6 above.

Consult the *Humanitarian Designated Classes Regulations* for details of criteria for the Country of Asylum and Source Country Classes, summaries of which appear in Section 1.5.

6.2 War crimes, crimes against humanity, crimes against peace and crimes against the purposes and principles of the United Nations

The definition of Convention refugee in the Act includes the phrase "... but does not include any person to whom the Convention does not apply pursuant to section E or F of Article 1 thereof, which sections are set out in the Schedule to this Act". The Schedule reads as follows:

> "Sections E and F of Article 1 of the United Nations Convention Relating to the Status of Refugees. 2(1) of the Act
>
> This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.
>
> The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
>
> - he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
> - he has committee a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; or
> - he has been guilty of acts contrary to the purposes and principles of the United Nations."

For detailed information regarding what constitutes a war crime, a crime against humanity, crimes against peace or acts contrary to the purposes and the principles of the United Nations, please refer to OM EC99-05 issued 18AUG99. Further information may also be obtained by contacting the Modern War Crimes Unit (BCW), Case Management Branch (BCD).

It is important to note that persons defined in Article 1(F)(a) - War criminals and persons guilty of crimes against humanity - are excluded from consideration as Convention refugees seeking resettlement pursuant to the definition. Similarly, war criminals are not admissible under the Country of Asylum or Source Country classes pursuant to A.19(1)(j) which covers war crimes. Persons guilty of terrorism, which is considered a crime against humanity, are inadmissible pursuant to 19(1)(e) or (f). (See Section 7.11 on War Criminals). For detailed information, contact the Modern War Crimes Unit (BCW).

6.3 What is acceptable evidence of eligibility?

Applicants rarely present documentary evidence in support of a claim of persecution. You will have to rely on your judgement and knowledge to determine whether a claim is credible. You may also consult the UNHCR office in your area for information.

If you are dealing with an applicant from an area about which you know little, contact a visa office or Canadian mission with appropriate expertise. Request background infor-

mation or their opinion on a story. Such requests should be classified in order not to put an applicant at risk. National Headquarters (NHQ) can provide country information from the Immigration and Refugee Board (IRB), Canadian based human rights groups and NGOs. The IRB has a Web site at http://www.irb.gc.ca. The UNHCR has an extensive database on country conditions which is available from Branch Offices and on its Web site (http://www.unhcr.ch).

If you do not doubt the veracity of an applicant's story, but lack conclusive evidence to support it, give the benefit of the doubt to the applicant.

6.4 What is a durable solution?

The three durable solutions for refugees and persons in refugee-like situations are contained within the body of the *Immigration Regulations* and HDC definitions:

- Voluntary Repatriation: repatriation should occur only when the situation in the country of habitual or permanent residence has changed in a lasting and meaningful way and refugees can return in conditions of safety and dignity. If the country is made up of many ethnic groups, bear in mind that some refugees could be safely repatriated while others could not. The UNHCR is an excellent source of information on such conditions.
- Local Integration: refugees are considered to be locally integrated in the country of refuge if they can move around the country freely, they are allowed to earn a living, their children are allowed to attend school, there is no threat of refoulement, etc.
- Resettlement to a third country: resettlement as an instrument of protection is geared primarily to the special needs of refugees whose life, liberty, safety, health or fundamental human rights are at risk in the country where they sought refuge. It is used for those who are particularly vulnerable and who are unable to benefit from the other two solutions. It is also a means of burden-sharing and of family reunification.

When considering an applicant for resettlement in Canada you must be satisfied that he or she does not have another durable solution, for example:

- The applicant is not likely to voluntarily repatriate within a reasonable period of time. Given the circumstances of the refugee population in your area, you are encouraged to discuss what is a reasonable period of time with agencies in your area, such as the UNHCR.
- The applicant does not have another offer of permanent residence (e.g. from the USA, Australia or any other country). Note, however, that in extenuating circumstances, such as the presence of a close family member in Canada, applicants with another offer of permanent residence may be processed for resettlement to Canada.
- The applicant is not locally integrated. The factors to consider when deciding if an applicant is not locally integrated include whether:
- formal asylum has been granted;
- there is a risk of refoulement;
- the applicant can seek and accept employment;
- the applicant's children can attend school;
- the applicant can return to the country or territory of asylum; or
- the applicant can acquire permanent residence or citizenship in the future.

6.5 Can refugees in a country of asylum signatory to the Convention or Protocol be selected for resettlement in Canada?

Some 138 states are signatory to either the 1951 Geneva Convention, the 1967 Protocol, or both (see IR 2). You will not normally select Convention refugees seeking resettlement in states which are parties to the Convention or Protocol, and willing and able to protect refugees. You must bear in mind, however, that Canada's resettlement program is fully independent of any determinations on refugee status made by other countries. It is based on commitments that go beyond the requirements of the accords, and includes programs and classes that do not exist in the programs of other countries. If in doubt you should consult with the Resettlement Division (SRE).

You may receive private sponsorships for persons who are not, strictly speaking, in need of resettlement in Canada because they are in a signatory country and have protection. Many signatory states, however, offer only temporary status to asylum seekers. These persons therefore are not permanently resettled and may be eligible for resettlement in Canada even though they may not be immediately in need of resettlement *per se*. You may issue immigrant visas to such persons provided they are either Convention refugees seeking resettlement or in a refugee-like situation as defined under HDC, and otherwise admissible. Keep in mind the fundamentally humanitarian nature of the resettlement program and the principle of family reunification.

6.6 Determining whether someone is a Convention refugee seeking resettlement

The key to assessing eligibility is the Convention refugee definition in A 2(1). A thorough understanding of every part of the definition is essential for officers dealing with refugee applicants.

The *Handbook on Procedures and Criteria for Determining Refugee Status* and the UNHCR *Resettlement Handbook*, both published by the UNHCR, provide a detailed interpretation of the Convention definition. Every visa office should have copies. You may wish to consult the *Handbooks* when assessing eligibility. A checklist of *Handbook* references is attached as APPENDIX J. (You will also find the *Handbook* on the UNHCR Web site: http://www.unhcr.ch).

The phrase "by reason of a well-founded fear of persecution" is key to the definition. It has a subjective element (fear) and an objective element (well-founded). Both must be taken into consideration, but normally your focus will be on the well-founded aspect of the case.

Applicants must provide information to enable you to decide if they were persecuted, or have good reason to fear persecution. This information may or may not be documented. You will need to take into account the credibility of the applicant, your own knowledge of country conditions in the source country and in the country of asylum, and make use of available resource material.

Actual persecution need not have taken place. You must be satisfied that the applicant has supplied sufficient adequate evidence to prove he or she has a well-founded fear of persecution. You should also consider the provisions of international agreements and covenants to which Canada is signatory, such as the *Convention against Torture* and the *Convention on the Rights of the Child*, etc. These will contribute to an informed decision on eligibility.

6.6.1 What is persecution?

There is no universally accepted definition of persecution. In assessing a refugee application, you must use the definition in the 1951 Convention: persecution is a threat to life or freedom because of race, religion, nationality, political opinion or membership in a particular social group. Other serious violations of human rights on the same grounds also constitute persecution.

Persecution is usually carried out by authorities of a country. Actions of non-government authorities may also constitute persecution if they are tolerated by authorities or if the authorities are unable or unwilling to protect the person concerned.

- Race

  "Race" includes all ethnic groups referred to as races in common usage. Discrimination on the basis of race is an important consideration when assessing persecution.

- Religion

  Persecution may take the form of laws against membership in a particular religion, public or private worship, or giving or receiving instruction in a religion. It may also involve serious discrimination against adherents of a religion (for example, the banning of the Bahá'í faith in some countries).

- Nationality

  Nationality refers to citizenship, ethnic or linguistic group and/or race. Adverse measures directed against an ethnic or linguistic group may be persecution.

- Political opinion

  Political opinion refers to alleged, imputed or known opinions contrary to, or critical of, a government or ruling party. Although an applicant's opinions, actions or associations will normally have come to the attention of authorities, this is not always the case. Even in the latter circumstance, persons may have a legitimate fear of persecution based on the opinions they hold.

- Particular social group

  Particular social groups are made up of persons of similar background, social status or practices. This includes:

- Groups defined by an unchangeable characteristic such as gender, sexual orientation, family or caste.

- Groups whose members voluntarily associate for reasons so fundamental to their dignity that they should not be forced to forsake the association, such as human rights organizations or trade unions.

- Groups associated by a former voluntary status, unalterable due to the passage of time.

6.6.2 What is the difference between persecution and discrimination?

The degree to which one's liberty or rights are restricted is important in making a determination of persecution. For example, a flagrant violation of a basic right, such as denial of a fair and impartial trial, particularly when combined with unduly severe punishment, is usually considered persecution. Denials to individuals of promotion or access to post-secondary education are examples of discrimination, not persecution. The systematic denial to a group of promotion or access to post-secondary education, however, constitutes persecution. When linked to a Convention ground such as race or religion, it may be grounds for recognition as a Convention refugee seeking resettlement.

6.6.3 Other factors in determining persecution

- Individual circumstances

  Applicants must explain why they *personally* fear persecution. They should give specific examples of persecution or explain why they have reasonable grounds to fear persecution.

- Outside the country of nationality or former habitual residence

Applicants who have a nationality must be outside the country of their nationality and must fear persecution in that country. Stateless applicants must be outside the country of former habitual residence and fear persecution in that country.

- Unable or unwilling

  "Unable" refers primarily to persons refused passports or other protection by their own governments. "Unwilling" refers to persons who refuse the protection of the country of their nationality.

  The following factors may indicate whether an applicant has a well-founded fear of persecution:

  - A decision by the UNHCR or a signatory state with regard to an applicant's refugee status.
  - Membership in a minority group - social, political, ethnic, national, or religious - which may or may not have been persecuted.
  - The political beliefs and/or activities of applicants while in their country, whether or not they were punished for their political beliefs or activities, as opposed to crimes.
  - Access to education or training, employment, housing, and social benefits compared with fellow citizens.
  - History of incidents indicating persecution of applicants, their close relatives or members of the same group.
  - Legal or illegal departure from home country and whether there was risk involved.

The following are examples of acts you would normally consider persecution. They must be perpetrated or tolerated by authorities for grounds cited in the Convention definition:

- Slavery or servitude without compensation or at a minimal level inconsistent with the person's qualifications.
- Torture and cruel, inhuman or degrading treatment.
- Threat to life, liberty and security of the person.
- Arbitrary arrest, detention or exile (either outside the country or to a remote region within it).
- Harassment, detention or arrest of an individual because of known or suspected political opinions, race, religion, or membership in a particular social group.

6.6.4 What is the distinction between prosecution and persecution?

Persons fleeing prosecution are not normally considered Convention refugees.

Sections E and F of Article 1 of the 1951 Convention explicitly exclude terrorists and criminals fleeing prosecution from Convention protection. Such persons may be refused admission to Canada through the provisions of A19. Applications involving terrorists or war criminals should be referred to BCZ (terrorists) or BCO (war criminals) at NHQ for an opinion, with a copy to the Resettlement Division (SRE) of Refugees Branch and to Case Management Branch (CMB).

You may meet applicants whose prosecution is a form of persecution. If an applicant would be treated more harshly than others who committed a similar offence in that country because of race, religion, nationality, membership in a particular social group or political opinion, the possibility of persecution should be examined.

6.6.5 What is persecution on the basis of gender?

Refer to the Immigration and Refugee Board ***Guidelines* on *Women Refugee Claimants Fearing Gender-Related Persecution*** (attached as APPENDIX H) and the CIC *Declaration on Refugee Protection for Women* released in June 1994 (see APPENDIX G).

The IRB *Guidelines*, although written for use in Canada, provide information which will assist you in determining whether an applicant has suffered persecution based on gender. You should always take them into consideration when assessing applications from refugee women.

The Convention definition does not explicitly include gender as a ground for fearing persecution. The Executive Committee of the UNHCR, however, of which Canada is a member, clearly stated in a Conclusion reached at its 41st session in 1990 that persecution on the basis of gender may fall under "membership of a particular social group." Many applicants who claim to have suffered persecution on the basis of gender may also fall within one or more of the other grounds contained in the Convention definition. The fact that the Convention definition does not cite gender *per se* will not matter in your assessment. A body of case law exists on this point.

Serious violations of fundamental human rights, including severe discrimination on the basis of gender, may constitute persecution. Many gender-related cases may be determined on grounds of religion or political opinion while others may fall within the scope of membership in a particular social group. The latter, while difficult to define, may comprise women associated through a common desire to exercise a right which is fundamental to their human dignity.

When determining whether discrimination or violence against a woman, because she is a woman, constitutes persecution, you should consider whether the incidents in question are of such a character, or are so severe or extreme that their effects would be persecutory. You should also consider whether the discrimination or violence experienced or feared is a serious violation of a fundamental human right on a Convention ground. The inability or failure of the state to protect a woman should also be taken into account.

Interviews with refugee women must be undertaken with particular sensitivity, especially where sexual violence has been used as a means of persecution. In many cases, women may have difficulty discussing experiences of sexual abuse (see Section 5.2 on conducting interviews).

6.7 Determining whether someone is a member of the Country of Asylum Class

To be eligible for selection under the Country of Asylum Class, an applicant must meet the definition as outlined in the *Humanitarian Designated Classes Regulations* and summarized in sub-section 1.7.

Cases may be accepted under the Country of Asylum Class only if there is a private sponsorship (RA3) for the person concerned, or if an applicant will be self-sufficient and therefore not need financial assistance on arrival in Canada (RA4). Currently, applicants in the Country of Asylum Class may not be accepted under the regular government assistance program, but do qualify as special needs cases under the Joint Assistance Program (RA5). The factors outlined in 6.6.1 through 6.6.5 also apply to the consideration of applicants in this Class.

Persons screened out under the provisions of the Comprehensive Plan of Action (CPA) are not eligible for processing under these regulations.

6.7.1 What does the term "seriously and personally affected" mean?

You must be satisfied that an applicant has been and continues to be adversely affected on a personal level as a result of civil or armed conflict or violations of human rights. Having established that, you must then determine whether he or she has been

seriously affected. "Seriously affected" means sustained, effective denial of a core or basic human right. You should ascertain how an applicant is affected by civil war or armed conflict or violations of human rights in his or her country and to what extent the applicant has been affected.

When making these determinations as to whether an individual has been seriously and adversely affected you should refer to international human rights instruments which establish rights considered by the international community to be of utmost importance.

The *International Covenant on Civil and Political Rights*, along with the *Universal Declaration of Human Rights* and the *Covenant on Economic, Social and Cultural Rights* are the three instruments that make up the International Bill of Human Rights. The text of all three of these instruments can be found on the UNHCR Web site at: http://www.unhcr.ch

A core human right is defined as a right from which no derogation is permitted under the *International Covenant on Civil and Political Rights* (ICCPR), even in times of war. The ICCPR lists the following as core human rights:

- right to life;
- freedom from torture;
- freedom from enslavement or servitude;
- protection from imprisonment for debt;
- freedom from retroactive penal laws;
- the right to recognition as a person before the law; and
- freedom of thought, conscience and religion.

The *Universal Declaration of Human Rights* incorporates the core human rights from the ICCPR but further outlines a broader range of rights. For example, it states that freedom from arbitrary arrest and detention is a human right as is freedom from arbitrary interference in private, home and family life.

What constitutes a basic human right is determined by the international community, not by any one country. When making a determination as to whether a fundamental violation of a core human right has taken place, however, it is acceptable to consider Canadian law.

6.7.2 Making a determination as to whether a "massive" violation of human rights has taken place

When making a determination as to whether a massive violation of human rights has taken place you should ascertain whether the violation is or was systemic. You should also consider the scope of the violations. A "massive" violation of human rights means that the violation is not an isolated occurrence. "Isolated" can be interpreted two ways. In one sense, a violation is isolated (i.e. not massive), if it happens to an individual (or a few individuals) as opposed to a specific group (such as Afghani women) or an entire population. In another sense, a violation is isolated if it is a one-time occurrence, as in the case of an eruption of violence over a particular incident. There may not be a history of violence prior to the incident in question, nor is there a reasonable expectation of a recurrence. In this sense, the violence may have been horrific, but it would not be considered "massive" in the context of these regulations.

Human rights reporting prepared by the Department of Foreign Affairs and International Trade (DFAIT), the UNHCR and other organizations of the United Nations, the United States Department of State, Human Rights Reports, Amnesty International, Helsinki Watch and other NGOs and international organizations, etc. provide information that can assist you with a determination. You should not hesitate to seek guidance from SRE when in doubt.

6.8 Determining whether someone is a member of the Source Country Class

To be eligible for consideration under the Source Country Class, applicants must be residing in a country of citizenship or habitual residence which is set out in the Schedule to the *Humanitarian Designated Classes Regulations* (HDCR). See APPENDIX A for a current list of such countries. In addition, they must meet the definition of Source Country Class as outlined in the *Humanitarian Designated Classes Regulations* and summarized in Section 1.8.

Applicants under the Source Country Class may be selected as either government-assisted or privately sponsored refugees. Members of this class are also eligible for Joint Assistance Sponsorship as applicable. The factors outlined in 6.7.1 through 6.7.5 above apply to the consideration of applicants in this Class.

6.8.1 What does the term "seriously and personally affected" mean?

See Section 6.7.1 above.

6.8.2 What does the expression "legitimate expression of free thought or a legitimate exercise of civil rights pertaining to dissent or to trade union activity" mean?

Civil rights are rights which belong to a person by virtue of his or her citizenship in a state or community (Black's *Law Dictionary*, Fifth Edition). Civil rights belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants. They are not rights connected with the organization or administration of government. They include rights of property, freedom of expression and dissent, marriage, equal protection of the law, freedom of contract, trial by jury, etc.

Section 11 of Article 28 of the *International Covenant on Economic, Social and Cultural Rights* requires signatory states to undertake to ensure:

a) "the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interest of national security or public order or for the protection of the rights and freedoms of others.

b) the right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

c) the right of trade unions to function freely subject to no limitation other than those prescribed by law, and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

d) the right to strike, provided that it is exercised in conformity with the laws of the particular country."

6.8.3 What is "penal control"?

The phrase "penal control" is found in the definition of members of the source country class in the HDC Regulations. Penal control is any punitive restriction imposed on an individual or group by authorities that does not apply to the general population (e.g. restriction of movement or occupation).

If a Source Country Class applicant has been detained or is under some other form of penal control, you should determine if the detention or penal control resulted from the efforts of the applicant to express a point of view contrary to the government's position or to promote social change. If the answer is "yes", the applicant may be eligible for selection under the Source Country Class.

6.9 Which family members are eligible?

Context

Refugee processing faces many challenges. In meeting these challenges we must be guided by core Canadian values and the objective of upholding our humanitarian tradition. The family and the unity of the family is one of these values. That is why Canada has signed many international human rights instruments which contain references to family unity and why the principle of family unity is expressed in the *Immigration Act* as an objective regarding family reunification. The *Immigration Act* and *Regulations* and several operational memoranda outline the scope, nature and details of this principle with respect to definitions and statutory requirements and sponsorship rights and obligations. These apply to all immigrants, including refugees. Because there are circumstances unique to refugees however, including our obligation to protection, some refinement in policy and approach is needed in the case of refugee families. The UNHCR regards family reunification as a vital matter for refugees. The section which follows describes the approach we must follow to ensure that our commitment is met in cases where the overall approach is incomplete and cannot address the circumstances we need to resolve. While the policy intent can be readily described, the application of this intent, we readily acknowledge, is the larger challenge.

There is a clear and direct relationship between the foregoing and the use of discretion and flexibility both in selecting refugee families in the first instance and also in examining cases where reunification of refugee families in Canada is involved. Visa officers must be flexible in determining who is a member of a refugee family, as it is not unusual in many refugee situations to find that families have been split or reconfigured for reasons relating to the departure from the country of nationality or last permanent residence. Non-Refugee Classes of immigrants and their families make conscious and voluntary decisions regarding immigration and possible separation of the family unit. Refugee families, by contrast, are unwillingly separated. Because of this difference and the humanitarian nature of the Refugee Resettlement Program refugee families need to be dealt with a more flexible manner. To the greatest extent possible visa officers should avoid splitting or separating refugee families at the time of selection. If one family member is accepted as meeting resettlement criteria, then every effort should be made to deal with other family members in the same way. In general, the facts that lead to one family member's selection as a refugee would apply to the other family members, even if indirectly. The family member's situation can be said to be derivative of the principal applicants. In keeping with the principle of not splitting families, the converse is equally true - if one member is refused all should be refused.

Similarly, where private sponsorships (RA3, CR3) of family members or relatives are being examined officers should place considerable confidence in the financial, emotional and social assistance that family in Canada can apply to resettlement. IMDB data shows clearly that such cases resettle very effectively and much more so than government assisted refugees.

Concept of Family to be used when assessing refugee resettlement cases

Concept of family

Consistent with the use of appropriate discretion and flexibility in assessing refugees, the concept of family, for refugee resettlement purposes, should be considered to include those who currently may be included on the principal applicant's application, (i.e. spouse and dependants - regardless of whether they are physically at the same location) as well as, other family members in the circumstances outlined below.

These "other family members" include common-law partners, and *de facto* dependants (who may or may not be blood relatives) and certain *extended family members*. To be considered as a member of the family unit you must be satisfied that these persons are dependent on the family unit in which membership is claimed. The dependency may be emotional, economic or cultural and will often form a combination of these factors.

Such persons would normally, but not exclusively, reside with the principal applicant as members of the same household. Persons who form part of the family unit should be examined sympathetically and consistent with efforts to keep family units together if at all possible.

Family members, including *de facto* dependants, should not be left behind in the country of asylum or source country to be sponsored at some undefined point in the future. Every effort should be made to process family files together so that family members may travel at the same time.

As members of the family unit, *de facto* and extended family members are to be selected in the same category and receive the same consideration as other family members so that they benefit equally from the Resettlement Assistance Program (RAP) and other broad based settlement services after arrival in Canada.

No attempt is being made to define dependency in greater detail. The following non-exhaustive list is provided to assist officers in determining whether a person should be considered as being a member of a family.

Examples of persons who should be found to be members of a family unit:

- A common-law-partner of the principal applicant: commom-law partner here refers to someone who is cohabiting in a conjugal relationship, having so cohabited for a period of at least one year.
- An unmarried adult daughter in cultures where it is normal for an unmarried adult daughter to remain dependent until she marries
- A widowed sister or sister-in -law in a traditional culture where it is normal that the applicant would take on responsibility for her care and support and who has no other means of support
- Nieces and nephews whose parents have been killed or are missing (Note: In these cases you must take into consideration the best interests of the child and ensure that there are no disputes with respect to custody or guardianship of the child)
- Parents of any age living with the principal applicant and who have no other children with whom they could reside or no means of support other than the principal applicant (Note: Those family members who appear to be unlikely to enter the workforce should be processed as CR5s with a request for a contribution for transportation and medical costs where appropriate)
- Elderly relatives who have resided with the principal applicant for a substantial period of time **and/or** who are solely or for the most part dependent on the applicant for care, shelter, etc

Examples of persons who should NOT be found to be members of a family unit:

- A married sister living with the applicant who has a husband residing in another known location unless it is demonstrated to the visa officer that the sister cannot rely upon her husband for support.
- A married daughter and her husband living with the principal applicant unless they can demonstrate to the visa officer that they are completely dependent upon the principal applicant for financial support (Note: They will have to qualify for resettlement on their own merits).
- An elderly parent who normally resides with the principal applicant but who may reside with other children from time to time.
- A person who has been taking care of the principal applicant's children and living in the household for an extended period of time but who is not without family of their own.

With respect to the mechanics of processing the files family members who cannot be part of the application of the head of the family, it is suggested that you create separate files. These files should be cross-referenced with that of the HOF and indicate the family relationship in CAIPS. The person should be processed under the same category with the same status as the principal applicant. In general, as the facts for the cases should be the same, no separate interview should be required.

If ANY concern exists as to whether a refugee (CR, RA, RS) should be processed as a family member you should contact SRE for advice and guidance.

Family - Special Needs cases

Remember that in protection cases the principles of family reunification will outweigh resettlement concerns associated with individual family members. Where you identify compelling resettlement concerns (for example with elderly parents) it may be appropriate to identify to the Matching Centre such cases as special needs cases which would benefit from a joint assistance sponsorship. Where a family member is processed as a special needs refugee, medical examination and transportation costs may be paid for by a contribution rather than a loan. You must make your request for a contribution to the Matching Centre at the same time as the request for a joint assistance sponsorship. The contribution fund was established to reduce the financial hardship on special needs refugees and the family unit as a whole.

Family - Resettlement

By respecting the family unit you are also enhancing resettlement potential of those selected. Initial results of data extracted from the Immigration database (IMDB) indicate that having the entire family in Canada aid in the resettlement of refugees in part because it relieves the worry about what may be occurring to family members left behind. Separation of spouses, common-law partners and dependants or elderly parents can cause high levels of stress and anxiety that are not conducive to resettlement. Families are less likely to resettle as well or as quickly when they are preoccupied with the fate or well being of family members left behind in a country of asylum. Heads of family will often work at several jobs in order to support not only the family in Canada but also the family left behind. Earnings that could go towards the establishment of the family in Canada are often remitted to family members abroad. We know that privately sponsored refugees are mostly related to sponsors in Canada and we know that they become successfully resettled much more quickly than GARs. The reason is obvious - family.

Refugees and Family Class Sponsorships

Refugees are to be processed as refugees whether or not they qualify under the Family Class, as Independents or under any other class. Refugees are defined by their eligibility as refugees or the HDC classes and their need for protection. As a particular subset of immigrants distinguished by this need, they do not undermine the Family Class or any other class by being processed as refugees. Where a person who meets the eligibility test for resettlement (RA, RS, CR) - whether a walk-in case, private sponsorship or UNHCR referral - has family members in Canada he/she/they should be processed as a refugees.

Family - One-year 'Window of Opportunity'

It cannot be over-emphasized that every effort should be made to ensure that families and in particular spouses, common-law partners and dependant children are not separated, or, if separation is unavoidable, that reunification is facilitated to the greatest extent possible. This is a principle relevant to all immigration applications, but particularly so with respect to Refugee and Humanitarian Class applicants. In addition, with respect to Refugee and Humanitarian Class applicants, it is recognized that the option of Family Class sponsorship does not provide a solution. With the restrictions that exist on the ability of a refugee to be in a position to sponsor under the Family Class, this

option means that extended periods of difficult separation occur. Currently, the lead-time it takes for refugees, with loans, to receive their first loan statement means that many are in automatic default at the time of receipt and any sponsorship would be denied. This inability to sponsor is something that is inconsistent with the spirit and intent of both CIC and the Minister's stated principles, both with respect to family reunification and with respect to providing protection to refugee and humanitarian applicants.

For this reason, efforts are currently ongoing to develop regulatory provisions that would address this issue. As an interim measure, however, visa offices are asked to approach such cases in as flexible a manner as possible. Therefore, in cases where persons who may be included on the principal applicant's (i.e. the spouse, partner or dependants) are unable to be examined at the same time as the principal applicant (their whereabouts are unknown, or there are other, credible reasons why they cannot make themselves available), and the principal applicant proceeds to Canada, visa officers are asked to open X-ref files on the spouse and children. Commom-law partners should equally benefit from this flexible approach. These files are to be kept open for a period of one year from the time that the principal applicant was issued his or her visa. If the spouse, common-law partner or dependants, are able to present themselves for examination within this one year period, every effort is to be made to process them under the same category as the principal applicant, including issuing immigrant visas to them under this category. If the principal applicant's application was government-assisted or privately sponsored, Refugee Branch/SRE will ensure that the spouse or common-law partner and children can proceed on the basis that full resettlement needs will be provided for.

If any concern exists on the part of the responsible visa officer as to whether or not a person should be processed within the "one-year window of opportunity" (either as refugee, source country or country of asylum applicants), or if consideration is being given to refusal of such an application, advice should be requested from Refugee Branch/SRE. In such an instance, a case summary or the CAIPS reference number should be provided so that SRE can provide the best possible advice.

6.10 Refusing on eligibility

If you are not satisfied that an applicant is eligible (i.e., he or she is not a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country Classes), you should refuse the application. Remember, however, that in a refugee interview it is unlikely that you will be presented with an open and shut case. The concept of a well-founded fear has both a subjective and objective basis.

In the first instance, you must determine if the expressed fear is well-founded. In this regard you assess the facts of the case, i.e. the country conditions and the circumstances of the applicant. You should consider all available evidence and the information provided by the applicant. The applicant's credibility comes into play because documentation is not always available. In situations where documentation does not exist, but the applicant is credible, you accept as given something that cannot be proven. (Refer to paragraphs 203 and 204 of the UNHCR ***Handbook on Procedures and Criteria for Determining Refugee Status***). If you are satisfied that the applicant is credible and that there are reasonable grounds to believe the applicant, then you should accept him or her as eligible.

When you are considering refusing a case, be sure that you have assessed it under *all* applicable resettlement classes (CR, RA and RS).

In the case of a refusal, you must obtain the concurrence of your program manager or a senior visa officer. Proof of concurrence must be entered in CAIPS, and placed in a paper file if CAIPS is not available. (Check with your geographic division for alternate procedures at single officer missions). Keep detailed notes to support your decisions;

these will be needed should the case be brought to the Federal Court (see Section 19.2 on Judicial Review).

After a refugee application refusal, if it is evident that an applicant may qualify under another immigration category (eg, Family Class) you should advise him or her accordingly.

A refusal letter must explain why you do not think an applicant is a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country Classes. It should refer to evidence provided by the applicant, and how and why this evidence does not meet the requirements for recognition as a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country Classes. Send a copy of the refusal letter to the UNHCR or sponsoring group, if applicable. A sample letter appears in APPENDIX I.

7 ADMISSIBILITY

7.1 What is admissibility?

For Convention refugees seeking resettlement and members of the Country of Asylum and Source Country Classes, admissibility includes both the statutory requirements (medical, security, criminality) and an assessment of applicants' ability to establish themselves successfully in Canada. The statutory requirements appear in A 19. The admission requirements concerning the ability to establish for Convention refugees seeking resettlement appear in Section 7 (1) of the *Immigration Regulations*; those for members of the Country of Asylum and Source Country Classes are outlined in Section 4 (1) of the *Humanitarian Designated Classes Regulations*.

7.2 Why assess ability to resettle?

Like other immigrants, refugees must not burden Canadian health or social services excessively or threaten our peace and security. In addition, they are expected to adapt to Canada's social and economic mainstream within a reasonable period of time. In cases of urgent protection or women at risk, however, this general rule should be applied very flexibly. See Section 11.3 on urgent protection, and Section 11.2 on Women at Risk for further details.

7.3 Determining the ability to resettle

Relaxation of the regulatory requirement that refugees be able to settle within one year is one of the four major changes towards strengthening refugee protection announced by the Minister in the legislative review.

Refugees have been selected with the expectation that they would be able to resettle themselves within a year of their arrival in Canada. Immigration Data Base (IMDB) information indicates, however, that most refugees have needed a longer period to become self-sufficient. In particular, the current resettlement requirement has made it difficult to protect refugees in need of resettlement who need longer than a year to settle: for example, women at risk, survivors of violence and torture, the elderly, people requiring medical treatment, and unaccompanied minors. The current Regulations thus do not reflect the reality of the settlement experience.

For this reason current policy is to consider resettlement using a 3 - 5 year time horizon rather than a one year criterion.

In assessing resettlement you must bear in mind that protection is the overriding goal of Canada's resettlement program. The greater the need for protection, the less emphasis you should place on the ability of applicants to resettle themselves. In cases where a refugee is in a vulnerable situation, facing threats to physical security for example, you must be particularly flexible in assessing resettlement potential. In most circumstances refugees have a strong desire to rebuild their lives and to resettle a new home. Canada's extensive support system of reception centres, immigrant serving agencies, language classes, sponsoring groups etc., will help them begin this process.

As the regulatory requirements related to ability to resettle apply equally to all refugee and humanitarian cases - whether government assisted, privately sponsored or self-funded - you should assess all of them in exactly the same way.

Both the *Immigration Regulations, 1978* and the *Humanitarian Designated Classes Regulations* require that you assess the ability of a person to resettle him or herself successfully to life in Canada. The humanitarian nature of the resettlement program and its emphasis on protection of refugees and persons in refugee-like situations call for a reasoned use of flexibility when you make your assessment. Refugees and humanitarian cases are not in these categories by choice. Because they are not independent immigrants, your assessment of their ability to resettle must be very different from your approach to other immigrant cases.

7.3.1 Resettlement factors stipulated in the Regulations

When you assess the ability of Convention refugees seeking resettlement or of members of the Country of Asylum or Source Country Classes to resettle themselves in Canada, the *HDC Regulations* indicate that you should bear in mind the following considerations:

- the ability of the applicants to communicate in English or French;
- the age of the applicants;
- the education, work experience and skills of the applicants;
- the number of accompanying dependants and their ages; and
- the adaptability, motivation, initiative, resourcefulness and similar qualities of the applicants.

The Regulations also indicate that you take into consideration the following financial arrangements to meet the requirements of A 19 (1) (b):

- whether a group or corporation is sponsoring the application for admission of the applicant and his or her dependants; or
- whether other financial assistance is available to the applicants (e.g. government assistance); or
- whether the applicant has sufficient funds to support him or herself and his or her accompanying dependants.

Units of assessment are NOT applied in the case of a refugee applicant.

The above considerations are not guidelines, but general factors to keep in mind during your assessment. It is not necessary that an applicant speak English or French in order to qualify for resettlement in Canada. Neither is it necessary for an applicant to have a certain level of education or work experience. You cannot expect all refugees to have the same qualifications as independent applicants, although some will. You need only be satisfied that they will be able to support themselves and their dependants within a reasonable period of time (normally within three to five years of arrival in Canada). Persons with manual skills and low education can and do find employment and adapt to life in Canada, in some instances more readily than better qualified applicants who may have difficulty getting their professional qualifications recognized. Applicants need not resettle that they can work in their former occupations. In fact, it is virtually impossible for them to do so before arrival in Canada if they belong to a profession or trade that is regulated provincially or federally.

You should also take into consideration other relevant factors, including an applicant's personal suitability, adaptability, motivation, initiative, resourcefulness and similar qualities. For example, a refugee who has survived torture may display a gritty resolve to rebuild his or her life. A single woman who has kept her family intact while living in a refugee camp may be able to do the same in Canada. An applicant who has learned to speak the language of the country of asylum will in all likelihood be able to learn English or French.

You should give due consideration to all of these factors in your assessment.

7.4 Immigrant loans for applicants who have the ability to resettle themselves

If you determine that an applicant will be able to resettle her or himself successfully in Canada, you will normally authorize an immigrant loan when needed to cover the transportation and medical examination costs. If the amount of the loan will be more than $10,000 you must request approval from your program manager before authorizing a loan. You may also want to request a contribution.

In the case of certain special needs refugees, contributions to cover transportation, and medical examinations may be available. Please consult with SRE for further details and instructions, if needed.

For more information on the immigrant loan program and the contribution fund, please refer to OP16.

7.5 How do you refuse on ability to resettle?

If you are not satisfied that a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country Class will resettle her or himself successfully within a reasonable period of time (current guidelines suggest 3-5 years), you may refuse the application. You must enter your notes in CAIPS, or in a paper file if CAIPS is not available. Your notes must include a conclusion with a summary of your decision and a clear statement of how the applicant does not meet the relevant criteria. Your program manager or a senior visa officer must concur in writing with your decision. This concurrence must also be on the file (including CAIPS notes).

Your refusal letter must give clear and detailed reasons why the applicant does not have the potential to resettle him or herself successfully. Send a copy to the sponsor, if applicable. A sample refusal letter can be found in APPENDIX K.

7.6 Alternatives to refusal on resettlement potential

If you are not satisfied that a government assisted applicant will successfully resettle in Canada, consider whether a sponsorship would make a difference. You may wish to refer the case to the Matching Centre if a private sponsorship is needed. In most cases, support from a private sponsor allows a refugee to adapt more quickly to life in Canada.

A Joint Assistance Sponsorship (JAS) is also a possible solution for either government assisted or privately sponsored applicants who fall into one of the special needs categories (see Section 11). In this case responsibility for assisting the refugee or member of one of the designated classes is shared by the government and a private sponsor. A JAS has a term of up to 24 months. If you believe a case would benefit from a JAS, send a detailed e-mail to the Matching Centre including all the information normally included in a Destination Matching Request (DMR - see Section 15), and any other information particular to the case. The Matching Centre will attempt to find a sponsor.

The regulations allow a private sponsorship to be extended beyond the normal period of twelve months in exceptional circumstances. You may consider extended private sponsorship when you believe that an applicant will require a longer period of assistance, even if he or she is not a special needs refugee. In such cases the sponsorship may be extended for up to 24 months provided the applicant is otherwise eligible under the regulations. An extension of sponsorship must be done in consultation with, and with the agreement of the Sponsorship Agreement Holder (SAH) and sponsorship group before the refugee travels to Canada (see Section 9.4 for procedures).

7.7 Medical examinations

Medical examinations are usually conducted by a Designated Medical Practitioner (DMP). DMPs are local medical doctors approved by the Canadian medical officer assigned to the visa office to conduct immigration medical examinations. If a DMP cannot conduct an examination, contact SRE for direction. Other arrangements may be possible.

Where the International Organization for Migration (IOM) organizes transportation, IOM may also arrange and prepay medical examinations. IOM absorbs the examination costs of unsuccessful refugee applicants. You should therefore stage processing to keep the number of applicants who have a medical examination but do not proceed to Canada as small as possible.

Refugees who have the means to do so may, of course, pay for their own medical examination. Otherwise, you may authorize a loan through the immigrant loan program.

7.8 Medical inadmissibility

Normally, refugees who fail the medical examination are inadmissible.

If strong humanitarian and compassionate grounds exist for allowing a medically inadmissible refugee into Canada you should consider issuing a Minister's permit. You should normally consider admission only in truly exceptional cases, such as for spouses, common-law partners, dependent children, last remaining family members or compelling humanitarian cases. If you believe that such circumstances exist you will need to obtain concurrence of the intended province of destination in Canada.

With existing financial constraints and escalating health care costs, provincial authorities are reluctant to receive medically inadmissible persons. Most provinces have medical review committees which meet periodically to decide on such cases. They assess the nature of the medical condition, the cost of medical care or treatment required, and the support available from family members in Canada. The decision-making process is complex and can be lengthy.

To request concurrence to issue a Minister's permit, follow the instructions in IP 19, Section 3.1.

A medically inadmissible refugee with a Minister's permit is eligible for a contribution, rather than a loan, to cover transportation and other costs (see OP16). You must request the (non repayable) contribution from SRE. When approval has been granted you need to indicate on the IMM 0500 that the individual is exempt from repayment of the contribution. If a head of family receives a contribution, the dependants do also.

A refusal letter to a medically inadmissible refugee follows the general format of the samples found in APPENDIX K. A copy should be sent to the UNHCR and sponsoring group, if applicable.

7.9 Criminality checks

You should not require refugees to submit police certificates or certificates of no criminal conviction from their home country. Alerting authorities in the country of alleged persecution to an individual's immigrant application may put an applicant or family at risk. You may, however, request police certificates for countries of temporary asylum.

7.10 Criminal inadmissibility

As with other immigrants, refugees can be inadmissible to Canada if they have been convicted of crimes or have committed acts or omissions that would render them inadmissible to Canada.

Refugees found to be inadmissible on this basis would normally be refused. If, however, there is reason to believe that the prosecution that the refugee was subjected to was the result of persecution, the refugee may be admissible. You may wish to consult with SRE prior to making a final decision. In doing so, you must include comprehensive case details as well as any relevant background you believe to be germane. Refer to both OP17 and OP18 for more detailed guidelines concerning criminal *inadmissibility* and *criminal rehabilitation* respectively.

There may be public policy, national interest or humanitarian and compassionate considerations that exist in such a case. Please refer to OP19 for more complete information regarding Minister's permits.

7.11 War Criminals

War criminals are excluded from consideration as Convention refugees seeking resettlement pursuant to the definition. War criminals seeking resettlement under the

Country of Asylum or Source Country class are not admissible pursuant A.19(1)(j). Refer to subsection 6.2. For detailed information, contact the Modern Crimes Unit (BCW).

7.12 Senior Members of or Senior Officials in Proscribed Governments

Refugees seeking resettlement in Canada who fit the description of senior members of or senior officers in a government or regime designated by the Minister as found in A.19(1(l) and A.19(1)(l)(1.1) are inadmissible

The governments and regimes that the Minister has designated as being described in A19 (1)(1) are the following:

- The Bosnian Serb government; (March 27, 1992 to October 17, 1996)
- The Somali government of Siad Barre (1969 to 1991)
- The Duvalier and military regimes in Haiti during the following periods: January 1971 to February 1986; October 1991 to August 1993; and December 1993 to April 1994;
- The former Marxist government of Afghanistan (1978 to 1992);
- The Iraqi governments of Ahmed Hassam Al-Bakr (1968-1979) and Sadam Hussein (1968 to present).
- The Rwandan government led by President Habyarima (October 1990 to April 1994) and the Interim government (April 1994 to July 1994);
- The governments of the Federal Republic of Yugoslavia and the Republic of Serbia, (February 28, 1998 to date), *but not the Republic of Montenegro, nor the Montenegrin officials who dissociated themselves from these governments in May 1998.

For an interpretation of sections 19(1) (l) and 19(1) (l (1.1) please refer to OM EC 97 - 01 issued on March 03, 1997. For further information contact the Modern Crimes Unit (BCW).

7.13 Terrorists

Persons seeking resettlement in Canada who have engaged in acts of terrorism or who are or were members of an organization that there are reasonable grounds to believe was engaged in terrorism are inadmissible pursuant to 19(1)(e) or 19(1)(f). As terrorism is a crime which is contrary to purposes and principles of the United Nations such persons are excluded from consideration as Convention refugees due to the definition. For further information contact the Modern Crimes Unit (BCW).

7.14 Combatants

Not all combatants are inadmissible. Some combatants will be inadmissible by virtue of their rank in the military and influence on government policy (19(1)(l)). Other combatants will be inadmissible by virtue of actions in which they have been directly involved or complicity which may constitute war crimes, crimes against humanity (19(1)(j)) or terrorism (19(1)(e) or (f)). Many combatants, however, whether members of government military or non-government forces, may be eligible. You will have to take into consideration a variety of factors in order to arrive at a decision. Please refer to the Modern War Crimes Unit (BCW) for more detailed information if required.

7.15 Security

Procedures for background clearance can be found in IC1.

8 GOVERNMENT ASSISTED REFUGEES (GARS)

Government assisted refugees include both Convention refugees seeking resettlement and members of the Source Country Class, and members of the Asylum Country Class selected under a joint assistance sponsorship. They are selected from applicants referred by the UNHCR or by NGOs, or who present themselves on their own initiative to visa offices.

8.1 Eligibility

Refugees selected for resettlement under the regular government assisted program are normally deemed able to settle and integrate with a minimum of financial and other assistance; they are eligible to receive financial assistance for up to 12 months. Those deemed to require longer-term financial and other forms of support should be considered for a Joint Assistance Sponsorship (JAS) where assistance is available for up to 24 months (see Section 11.1).

8.2 The Resettlement Assistance Program (RAP)

The RAP is a contribution program that operates within program terms and conditions and a program budget approved by Treasury Board. The program has two main components: income support and a range of immediate essential services. Income support can be provided for up to 12 months for regular stream government assisted refugees, and for up to 24 months for JAS cases. Monthly income support provided under the RAP is guided by provincial welfare income support rates for food and shelter, and covers only the most basic needs. Start-up items such as basic furnishings may be provided. To reduce unrealistic expectations that the actual dollar figures may stimulate, pre-departure orientation sessions for selected refugees must include cautionary information on current living costs at their destination and how to manage their budget in that context.

8.3 Secondary migration

The term "secondary migration" refers to a refugee-initiated change in location on or shortly after arrival in Canada to a destination (city or province) other than the one chosen during the selection process overseas. Some refugees who leave the destining decision to the visa officer choose on entry to Canada to "self-destine" (travel on) to another location. Such a change in destination has serious impacts on the financial resources and service structures of both the CIC and service providers. For this reason, you should be sure to verify whether the refugee has any relatives or close friends established in Canada, and try to send them to that destination.

Secondary migration increases costs beyond those allocated within the RAP budget. Budgets approved for regions are based on an anticipated number of refugees resettled to each province. While it is relatively easy to move financial resources for income support among provinces outside of Quebec, the costs for other services can exceed original program budget commitments. These costs include:

- administrative costs that affect the program delivery structure at both the CIC level and the level of service providers, and
- the costs of local infrastructures and services in each province.

Although government assisted refugees are under no obligation to remain in a particular location, you must inform them that any unilateral decision on their part to refuse to continue to their selected city of destination or to move to another city or province from the selected city of destination may result in a reduction of or ineligibility for certain RAP benefits.

It is important that refugees understand that they should remain at their selected destination for one year at a minimum. During the selection and resettlement process, the following procedures make this commitment explicit:

- refugees agree to come to Canada and identify the preferred city or province of destination, or indicate that a destination chosen by Canada is acceptable;
- they are informed by visa officers prior to their arrival in Canada that some services under RAP may not be available to them if they engage in secondary migration;
- they are informed by service providers in Canada that some RAP services may not be available to them if they engage in secondary migration; and
- they sign a Client Agreement in Canada that they were informed and understand conditions of receiving income support and other benefits under RAP and the consequences of engaging in secondary migration.

8.4 Coding

See APPENDIX B for a list of the official document coding for Government-assisted refugees.

9 PRIVATELY SPONSORED REFUGEES

9.1 What is private sponsorship?

The sponsorship of refugees by Canadian citizens and permanent residents was first authorized in the *Immigration Act, 1976.* It enables the admission of refugees in addition to those whose admission is financed entirely by the federal government. Part of the government's current refugee strategy is to engage more Canadians in refugee resettlement. R 7.1 and sub-section 4.1 of the *HDC Regulations* enable interested private groups to express their concern for refugees and individuals in refugee-like situations by sponsoring their applications for resettlement. As such, it provides an opportunity for the voluntary sector to extend Canada's capacity to resettle refugees.

Experience and current CIC data show that private sponsorships are an excellent and effective way of resettling refugees or those in refugee-like situations. Sponsors efficiently provide for the material needs of refugees. More importantly, personal attention from private sponsors helps to meet many of the psychological and emotional needs of refugees and assists them to adapt to life in Canada significantly more quickly than in the case of government assisted sponsorships.

9.2 Who may submit sponsorships and whom may they sponsor?

Sponsorships may be submitted by:

- a group of not fewer than five individuals, each of whom is a Canadian citizen or permanent resident, has attained at least 19 years of age and resides in the expected community of settlement (so-called group of five sponsorship); or
- a corporation which has entered into a Sponsorship agreement with the Minister and which has representatives in the expected settlement community (sponsorship agreement holders sponsorship). A list of sponsorship agreement holders (SAHs) can be found in APPENDIX L. Groups which are members of or associated with SAHs are known as Constituent groups (CG).

Sponsoring groups agree to provide the sponsored refugee with basic assistance in the form of accommodation, clothing, food and settlement assistance for a period of up to one year from the refugee's date of arrival or until the refugee becomes financially independent, whichever happens first. The sponsorship period may be extended to up to two years in certain cases. Sponsoring groups also assist the refugee to find employment and become self-supporting.

Private sponsors may sponsor both named and unnamed refugees, including Convention refugees seeking resettlement and members of both the Country of Asylum and Source Country Classes. Named sponsorships generally involve persons with family links in Canada. These named sponsorships are meant to promote family reunification (that is, to prevent splitting families). In many cases, these are an acceptable alternative to Family Class sponsorships. Sponsors provide relevant background information on the eligibility and admissibility of the referral, on the community profile of the sponsoring group and on the arrangements for the reception and settlement of the individual or family before the sponsorship is accepted by CIC in Canada.

Although sponsorship of unnamed cases is encouraged, it happens rarely.

Private sponsors may sponsor any family members of individuals who have already come to Canada under the Refugee or Immigration Program, as long as the family members still overseas meet the requirements of the Refugee and Humanitarian Resettlement Program. A Family Class Sponsorship is not required in these cases. Where the family members overseas do not meet the requirements of the Refugee and Humanitarian Resettlement Program, but are eligible for the Family Class, this latter approach may be recommended.

9.2.1 Named sponsorships

Private sponsors may identify a refugee whom they wish to assist (so-called named sponsorships) or may ask that an appropriate case be referred to them through the Matching Centre (so-called unnamed sponsorships).

The refusal rate of private sponsorships has been high in the past in part because family in Canada use the services of Sponsorship Agreement Holders to sponsor family members in countries of asylum who have not met the minimum criteria for classification as Convention refugees seeking resettlement, even when they are examined sympathetically in the context of family reunification. The refusal rate is expected to decline as SAHs in Canada increasingly examine the merits of cases referred to them for sponsorship and as visa officers examine these cases under the RA category.

9.2.2 Sponsorships of unnamed cases

Sponsors are encouraged by CIC to support government referred (unnamed) refugees not in need of urgent protection, but needing a sponsor. Many sponsors are willing and able to do this.

Should you interview refugees who could benefit from a private sponsorship, send full details of the case, including information on their story and details of any special needs to the Matching Centre as well as the estimated time of arrival. The Centre will find an appropriate sponsor.

Alternatively, a sponsor may request the Matching Centre to provide profiles of refugees in need of sponsorship. The Matching Centre then searches visa office referrals for a suitable individual or family. If there is no suitable referral on hand, the Matching Centre will solicit one from a visa office. You should make every effort to respond to such requests.

Sponsors are attracted to cases referred by government because of the speed of arrival and the quality of the referral. Please ensure that cases you refer to the Matching Centre are genuine protection cases and that your case management processing ensures that they arrive in Canada as close as possible to the estimated date of arrival. Keep sponsors informed of any delays.

9.2.3 Communication with sponsors by visa officers

Sponsors are important partners in the sponsorship process. Several reports have pointed out that perceived poor communication by visa offices is a major frustration and concern of SAHs. We want to avoid having sponsors feel it necessary to withdraw sponsorships because of perceived processing delays. Such situations generate unproductive work both in Canada and overseas, and defeat the aim of involving the private sector in sponsoring refugees.

The regular provision of processing information to sponsors helps to ensure that processing problems are resolved quickly and efficiently. A clause in the Sponsorship Agreement obligates CIC to communicate to sponsors all major processing benchmarks, such as acceptance, delays or refusals. APPENDIX M reproduces the appendix to the Sponsorship Agreement concerning communication between SAHs, Immigration offices in Canada and visa offices abroad. It includes the form you must use for communication with sponsoring groups.

Similarly, where no processing has occurred within 12 months, visa posts should contact the sponsoring group to ensure they wish to proceed with the sponsorship.

As a general principle, you should cooperate and communicate with sponsors as much as possible.

9.3 Sponsorship for cases destined to Quebec

See Section 12.4

9.4 Length of sponsorship

Sponsorships normally last 12 months, although this period may be extended to up to 24 months in very exceptional cases.

9.4.1 When do I use an extended sponsorship?

If you have determined that an applicant destined to a province other than Quebec will need additional assistance in settling, two options exist: the Joint Assistance Sponsorship (JAS) Program and extended private sponsorship.

You should first establish whether the situation qualifies the refugee under the Joint Assistance Sponsorship Program. If the refugee qualifies, the Matching Centre should be notified that the refugee has been approved under the JAS. If the sponsor is an SAH or Constituent Group, the Centre should contact the CIC and the sponsor to make arrangements to turn the private sponsorship into a JAS. If the sponsor is a Group of Five, or if the SAH or Constituent Group is unwilling or unable to undertake a JAS, a JAS sponsor will have to be found and the private sponsorship undertaking cancelled. The normal procedures for a JAS are to be followed.

If the refugee does not qualify under the JAS Program, you may consider an extended private sponsorship when it is clear that an extended period of assistance would mean the difference between the acceptance or rejection of a refugee who meets all other eligibility and admissibility criteria. For example, an extended sponsorship may be needed because the refugee's education, linguistic or employment skills are lacking. The extension of a private sponsorship to more than twelve months should be undertaken on an exceptional basis only as it has been documented that the majority of privately sponsored refugees are able to re-establish their lives within a relatively short time.

Signing an undertaking does not bind private sponsors to agree to an extension of a sponsorship. Legitimate circumstances may preclude them from taking on an additional commitment. The decision as to the appropriate length of a sponsorship rests with you. The private sponsor, however, has the sole discretion to decide whether or not to take on any additional responsibility. If the private sponsor is unwilling to consider an extension beyond 12 months, you should reject the application.

9.4.2 Length of extended sponsorship

Where a longer sponsorship period is required, the decision regarding the length of sponsorship rests with you. You may recommend any period of time between 12 and 24 months. Determining the length of sponsorship in most of these situations will be an imprecise science. It is therefore suggested that the extended sponsorships be set at either 18 or 24 months.

9.4.3 Sponsorship extension procedures

You must use the following procedures when requesting an extension of a private sponsorship:

1. Ensure that the following basic criteria are met before referring the case:
    - the applicant is not eligible for consideration under Joint Assistance Sponsorship (see Section 11.1);
    - you believe the applicant would establish her or himself successfully if given the benefit of assistance for up to 12 months beyond the normal 12 month private sponsorship period; and
    - in all other respects, the applicant meets eligibility criteria and admissibility criteria.
2. If the basic criteria are met, refer the case by e-mail to the Resettlement Division (SRE's e-mail address: NAT-RESETTLEMENT) with a detailed rationale for the

recommendation to extend the period of sponsorship. Indicate the proposed length of the extension. You may provide case details in either the e-mail or CAIPS notes. SRE will reply to the visa office with a recommendation whether or not to proceed with the request.

3. Upon receipt of a positive reply from SRE, you will send a letter to the representative of the sponsoring group advising that the applicant cannot be approved on the basis of a sponsorship of twelve months. If the group agrees to the extended sponsorship period that you recommend, however, the application can be accepted, assuming all other requirements are met. You must send a copy of the letter to the originating inland office for information, and append to it a form indicating the sponsor's agreement to accept the specified sponsorship period. The group members, or the contact person in the case of an SAH or Constituent Group, must sign this form.

Note: *If the overseas mail system is unreliable, the visa office should request the CIC which accepted the undertaking to contact the sponsor.*

9.5 Withdrawal or breakdown of sponsorships

Sponsors may at times withdraw a sponsorship because of long processing times and change of circumstances, such as changes in the financial status of group members, or new information about the applicant which makes the applicant unacceptable to the sponsoring group. Visa posts should recognize the understandable frustrations of sponsoring groups waiting for the interview or arrival of "their" refugee, and can help to avoid such withdrawals by processing sponsored cases as expeditiously as possible within the priorities established.

9.6 Processing priority of privately sponsored applications

Processing abroad of applications from privately sponsored refugees must be done as quickly as possible. Missions are expected to give the same priority to processing privately sponsored cases as government sponsored cases in recognition of the importance of the role of the Canadian private and voluntary sectors in resettlement and of the department's objective to achieve both the government assisted and privately sponsored targets.

9.7 Coding

See APPENDIX B for a list of the official document coding for applications from privately-sponsored refugees.

10 SELF-SUPPORTING REFUGEES

The category of "self-supporting refugees" consists of refugees who meet resettlement criteria and also have sufficient financial resources to support themselves and their accompanying dependents until they are also likely to become self-supporting. It adds a further option in selecting refugees in addition to the categories of those supported by government assistance and by private sponsors.

Even though the self-supporting refugee category and the Independent Class have many similarities, self-supporting refugees should not be forced to apply under the Independent category.

You should give applications of self-supporting refugees a higher priority in processing than those of independent immigrants because of the protection factor which may be inherent in the refugee application for resettlement

The department does not have a self-supporting refugee target and therefore does not allocate self-supporting refugees to missions. Self-supporting refugees are included in the range of privately sponsored refugees reported to Parliament each year.

10.1 Admission Requirements

To be eligible under a self-supporting category (RA4, RS4, CR4), an applicant must qualify as a Convention refugee seeking resettlement or under the Country of Asylum Class or Source Country Class criteria. Admission requirements for these categories are outlined respectively in subsection 7 (1)(b)(iii) of the *Immigration Regulations* and subsection 4.(1)(b)(iii) of the *Humanitarian Designated Classes Regulations* which read as follows:

Immigration Regulations - subsection 7 (1)(b)(iii)

"7.(1) where a person seeks admission to Canada as a Convention refugee seeking resettlement, the person and their accompanying dependants, if any, are subject to the following admission requirements:

&..

(b) a visa officer determines that

..&

(iii) the person has sufficient financial resources to provide for the lodging, care and maintenance, and for the resettlement in Canada, of the person and the accompanying dependants;

(c) where the person and the accompanying dependants intend to reside in a place in Canada other than the Province of Quebec, a visa officer determines that the person and the accompanying dependants will be able to become successfully established in Canada taking into consideration

(i) the ability of the person and the accompanying dependants to communicate in one of the official languages of Canada,

(ii) the age of the person,

(iii) the level of education, the work experience and the skills of the person and the accompanying dependants,

(iv) the number and ages of the accompanying dependants,

(v) the personal suitability of the person and their accompanying dependants, including their adaptability, motivation, initiative, resourcefulness and other similar qualities; and

(d) where the person and the accompanying dependants intend to reside in the province of Quebec, the person and the accompanying dependants, will, in the opinion of the appropriate Minister of that Province, based on regulations made

under *An Act respecting Immigration to Quebec,* R.S.Q., c. I-O.2, as amended from time to time, be able to become successfully established in that Province."

Humanitarian Designated Classes Regulations - subsection 4. (1) (b) (iii)

"4. (1) Where a person seeks admission to Canada as a member of the country of asylum class or a member of the source country class, the person and their accompanying dependants, if any, are subject to the following admission requirements:

&..

(b) a visa officer determines that

&..

(iii) the person has sufficient financial resources to provide for the lodging, case and maintenance, and for the resettlement in Canada, of the person and the accompanying dependants;

(c) Where the person and the accompanying dependants intend to reside in a place in Canada other than the Province of Quebec, a visa officer determines that the person and the accompanying dependants will be able to become successfully established in Canada, taking into consideration

(I) the ability of the person and the accompanying dependants to communicate in one of the official languages of Canada,

(ii) the age of the person,

(iii) the level of education, the work experience and the skills of the person and the accompanying dependants,

(iv) the number of ages of the accompanying dependants, and

(v) the personal suitability of the person and the accompanying dependants, including their adaptability, motivation, initiative, resourcefulness and other similar qualities; and

(d) where the person and the accompanying dependants intend to reside in the Province of Quebec, the person and the accompanying dependants will, in the opinion of the appropriate minister of that Province, based on regulations made under *An Act respecting Immigration to Québec*, R.S.Q., c. I-O.2, as amended from time to time, be able to become successfully established in that Province."

10.2 Determining the ability of applicants to be self-supporting

To determine the ability of applicants destined to provinces other than Quebec to be self-supporting, you must examine their ability to become successfully established using the criteria outlined in either subsection 7 (1)(c)(i) to (v) of the *Immigration Regulations* or subsection 4 (1) (c) (i) to (v) of the *Humanitarian Designated Classes Regulations*, depending on the category. You may also want to take into consideration other factors, such as the presence of family and friends in Canada who may be in a position to help the refugee and any accompanying dependents to resettle themselves successfully. These factors will give you a sense of the length of time a refugee will require to become resettled.

Following your assessment of the relative ability of applicants to resettle themselves, and the time this appears likely to take, you must next satisfy yourself that they have 'sufficient financial resources', without outside financial support, to provide for their own lodging, care and maintenance and resettlement in Canada, as well as for those of accompanying dependents. In most cases this will mean until they obtain suitable employment. You must interpret the phrase 'sufficient financial resources' flexibly and case by case, based on each applicant's establishment ability, family size, the ability of other family members to contribute economically, etc. Financial resources must be

measured in liquid assets; they do not include the potential value of property or other items the refugee might own.

When you assess the financial resources of applicants, use the general guideline that self-supporting applicants will require sufficient funds to cover:

- the cost of transportation and, medicals,
- the cost of temporary accommodation and start-up costs in Canada, and
- support for the applicant and accompanying dependents until continuing employment can be obtained.

You should consider six to twelve months as the time generally needed to find employment. A benchmark for determining 'sufficient financial resources' until the refugee finds a suitable job would be the rate a comparable refugee family unit would receive under the Resettlement Assistance Program (RAP) for start-up costs and income assistance. For information on RAP see: *RAP - Operational Guidelines Part I - Income Support (destined to IP-31)*

10.3 Counselling

It is important when counselling refugees selected as self-supporting for you to ensure they understand that they will not be eligible for government assistance when they arrive in Canada. They must also understand that they must have sufficient cash funds at the time their visa is issued in order to be admitted to Canada under this program; and that officers at the port of entry will check to see that they have these funds.

10.4 Coding

See APPENDIX B for a list of the official document coding for self-supporting refugees.

11 SPECIAL NEEDS REFUGEES

11.1 Joint Assistance Sponsorship (JAS)

The purpose of the JAS Program is to facilitate the resettlement in Canada of Convention refugees seeking resettlement and members of the Country of Asylum and Source Country Classes who have special needs. Because of their special needs or circumstances these persons are expected to need an extended resettlement period and assistance over and above that provided through either government assistance or regular private sponsorship alone. Given extra attention and care, however, they can reasonably be expected to adapt to life in Canada.

JAS provides the opportunity for the government and private sponsors to work together in the resettlement of these special needs persons who would not otherwise be accepted. The government provides income support for the period of the sponsorship and the private sponsors provide moral and emotional support and guidance while ensuring that the resettlement services required are provided.

11.1.1 Sponsors eligible to participate in JAS

Only organizations which have entered into a sponsorship agreement with the Minister, referred to as Sponsorship Agreement Holders (SAHs), and their constituent groups (CGs) are eligible to participate in the JAS Program. Groups of Five are not eligible.

11.1.2 Duration of sponsorship

All Joint Assistance Sponsorships will be in place for 24 months or until the refugee no longer needs the assistance, whichever comes first. Should it become clear that the refugee no longer needs all or part of the services provided, the CIC in consultation with the sponsor and the refugee has the discretion to discontinue whatever portions of the JAS that are no longer required.

11.1.3 Eligibility criteria for JAS

In order to be assessed for a Joint Assistance Sponsorship, an applicant:

- must be a Convention refugee seeking resettlement or a member of the Source Country or Country of Asylum Classes; and
- must be expected to need a longer and/or more difficult resettlement period due to the serious nature of the problems faced, including but not limited to one or a combination of the following:
  - Emotional problems resulting from the refugee experience. These could include incidents of trauma or torture; the threat of physical violence or emotional duress; the threat to physical safety or human rights violations in a country of asylum; or a long-term stay in a refugee camp which makes adjustments to new surroundings, freedoms and responsibilities difficult.
  - Physical or mental disability which could require treatment in Canada (see Section 7.8 for details on medical inadmissibility).
  - Unusual family configuration such as families with large numbers of children, elderly parents, single-parent families with several young children or families consisting only of siblings, one or more of whom has assumed parental responsibilities.

The problems should be of such a serious nature that you doubt the applicant would be able to resettle him or herself successfully in Canada through either the normal government assistance or private sponsorship programs. He or she must however be able to demonstrate a potential to resettle over an extended period of time.

11.1.4 The connection between JAS and RAP

The income support provided under JAS comes from the budget of the Resettlement Assistance Program (RAP). Those persons you select for consideration under JAS therefore come within your office's target established for government-assisted refugees.

11.1.5 Selection and referral of JAS cases

In the course of your normal duties you may decide that a refugee would require special assistance to come to Canada.

The UNHCR or non-governmental organizations (NGOs) may refer cases to a visa office, or bring cases to the attention of the Director of Resettlement (SRE), NHQ. These cases are then referred to the appropriate visa office for assessment.

11.1.6 Processing of JAS cases

When you have identified a refugee as eligible for JAS, send a profile of the refugee and dependants to the Matching Centre. The profile will include:

- a narrative describing the reasons for requesting a JAS;
- the special services required, and all information normally contained in a Destination Matching Request (DMR - see Section 15); and
- where appropriate, a request to cover the transportation and overnight costs while in transit to the final destination. These costs will be covered by the contribution fund for special needs cases. For more details, see OP16 - Loans Program.

When seeking a sponsor, the Matching Centre may directly contact SAHs or CGs who have already indicated their interest in participating in this program, or may consult with Regional Offices (RHQ).

Once a sponsor has been identified, the local CIC will set up an appointment with the sponsor to sign a JAS undertaking. Once a JAS undertaking is signed, the local CIC will advise you by e-mail or fax with a copy to the Matching Centre. A hard copy of the sponsorship undertaking will be sent to you with a cc to the Matching Centre.

11.2 Women at Risk (AWR)

There are some refugee women in extremely critical situations who need special help because they do not have the normal protection of a family. The persecution or harassment they are experiencing may be solely gender based. In addition, they may not fully meet the requirement to demonstrate an ability to establish themselves in Canada in the short or medium term. The Women at Risk Program (AWR) was introduced in 1988 to provide women applicants more equitable access to resettlement opportunities than was available in the past, by ensuring that the assessment of their ability to establish themselves successfully takes full account of their circumstances. Many of the women selected under AWR will come from cultures which may have denied them education and employment opportunities. Women at risk may also have small children, a circumstance which could preclude their immediate entrance into the workforce. A special program is necessary both to enhance awareness of the special problems facing refugee women and to ensure that women at risk receive appropriate settlement assistance once in Canada.

You should note the importance attached to this program and must make every effort in consultation with the UNHCR and other operational partners to ensure that appropriate candidates are identified and processed as a matter of priority.

You should review the 1994 CIC *Declaration on Refugee Protection for Women* attached as APPENDIX G.

11.2.1 Eligibility

- All AWR applicants will be Convention refugees seeking resettlement or members of the Country of Asylum or Source Country Classes.
- Women at risk are women without the normal protection of a family unit who find themselves in precarious situations where the local authorities cannot ensure their safety. This includes women who are experiencing significant difficulties, such as harassment by local authorities or by members of their own communities. Some women may need immediate protection while others are in permanently unstable circumstances which allow for no other remedy.

11.2.2 Ability to resettle

The AWR program offers resettlement opportunities to women in precarious or permanently unstable situations who do not have the settlement potential usually required for refugee or designated class applicants. While it should be expected that the women and/or their dependants selected under this program will eventually establish themselves in Canada, their integration period may well be more difficult and of longer duration than it is for other refugees or members of designated classes. When making a decision regarding the settlement potential of a woman at risk case, or any special needs case, please remember that protection is the most important goal of this program and in most cases should outweigh consideration of settlement potential.

11.2.3 Resettlement assistance

AWR cases may be processed as government assisted or privately sponsored refugees. If appropriate, some cases may be processed as extended private sponsorships for up to 24 months (for appropriate coding, please see APPENDIX B). As AWR cases by their nature have very special needs, however, they will usually require specialized assistance. A few may have good long-term settlement prospects, but due to the traumatic effects of their refugee experience, they will require additional integration assistance from a variety of service providers, including torture and trauma counselling. Others will have poorer settlement prospects because their education, linguistic or employment skills are inadequate, or because their adjustment will be hampered by the presence of young children. As a result, in most cases, women at risk will qualify for a Joint Assistance Sponsorship.

11.2.4 Procedures

The ability to question with sensitivity, awareness of the signs of gender-related persecution, and knowledge of conditions affecting women in source countries are required of those who deal with refugee women. CIC is developing training and direction for all immigration officers to promote this sensitivity, awareness and knowledge. Please refer to Section 5.1 and 5.2 concerning factors to keep in mind during refugee interviews.

When an applicant appears eligible for the program, you should interview her as quickly as circumstances permit. You should:

- Identify and process the person concerned speedily, in order to remove her as soon as possible from the milieu in which she faces difficulty. The standard for the process from identification to resettlement in Canada is three months. Medical instructions will be issued and the security check initiated at the time of interview. Medical officers and SLO (Security Liaison Officer) officers should be informed that the process should be as expeditious as possible. If this cannot be done, a Minister's permit is recommended for early admission.
- Send a message to the Matching Centre outlining the refugee background of the applicant, the reason she is in a precarious or permanently unstable situation, the degree of urgency, possible resettlement difficulties and whether a Joint Assistance Sponsorship is required. Make it clear why the woman is considered to be at risk. The message should also identify any special needs such as day care, profes-

sional services or job search counselling that the woman and her family are likely to need. The message should include all Destination Matching Request (DMR) information. The more complete the family profile, the easier it is to find an appropriate sponsor.

- Where possible, send Notification of Arrival Transmissions (NATs) separately, and include "AWR" in the subject line. If it is not possible to send separate NAT, insert "AWR" immediately after the family name in the regular NAT.

All communications, both from abroad and within Canada, must bear the words "Women at Risk" in the subject line. "AWR" should be entered in the special program box of the IMM 1343 and IMM 1000 and in the appropriate CAIPS field.

If you determine that a woman does not fall under the Woman at Risk Program, you may accept her as a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country Classes but without the "Women at Risk" or "AWR" designation.

11.2.5 Program monitoring

Because of the nature of this program, the Resettlement Division (SRE) will continue to monitor both selection procedures overseas and the resettlement of these women in Canada. Visa offices, CICs and regional offices will be requested to provide data and comments on the program from time to time.

11.3 Urgent protection cases

A case in need of urgent protection is one where the life, liberty or physical well-being of a refugee is under immediate credible threat. You will normally accept at face value a UNHCR assessment regarding the need for urgent protection, without need for further investigation.

Urgent protection cases by definition need to be resettled on the expedited basis required by their particular circumstances. Consequently, these cases are to be assigned the highest processing priority. Such cases are relatively rare and may come to your attention from the UNHCR or any other source. Where the source is known to be reliable you should make a decision within 24 hours. Where the source is the UNHCR you should make a decision based on the UNHCR file wherever possible, waiving the interview. Admissibility and all other aspects of processing need also to be given the highest priority. Risk management may have to be exercised, based on initial medical and security information or profiles if the final results are not available.

The management of an urgent protection case may require redeployment of resources to cover previously scheduled interviews and other work. To ensure that the person is en route to Canada as soon as possible, case management requires considerable upfront coordination and liaison with the UNHCR, medical officers and designated medical practitioners, security clearance officers, ICRC, IOM and local government authorities for exit clearances, etc.

Under no circumstances are cases to be delayed while waiting for a sponsor. You will likely need to use Minister's permits.

11.4 Medically inadmissible cases

If you find that a refugee is medically inadmissible and resettlement is still the best solution, refer the case to the Matching Centre.

The Matching Centre will then refer the case to regional immigration officials who in turn will seek concurrence of provincial authorities to admit the applicant for landing. The same procedure applies whether there is an illness or a physical disability.

If the refugee has relatives in Canada, the Matching Centre will refer the case to the Regional Office (RHQ) concerned. If there are no known relatives in Canada, it will refer

the case to the RHQ of a province where the case has a reasonable chance of being accepted.

In either scenario, the RHQ concerned will consult with a representative of the provincial health authority to obtain provincial concurrence. In some regions this may only be necessary where treatment or institutional care will be required in a provincial treatment centre.

The appropriate authorities in the province of destination must agree to the admission of the medically inadmissible refugee.

The Matching Centre will seek a sponsor for the Canada-referred (unnamed) refugee, and in the case of a Sponsor-referred (named) refugee, will inform the sponsor.

11.5 Unaccompanied minors

The preferred solution for most minor refugees is to reunite them with their immediate family. Reunion with immediate family relatives in Canada is desirable where none are overseas. Circumstances may, however, exist where the admission to Canada of an unaccompanied minor refugee with no immediate relatives in Canada is warranted. You should work closely with the UNHCR to determine whether resettlement is an appropriate solution for an unaccompanied minor refugee. In such cases you must ensure that long-term arrangements have been made for the care of the minor refugee in Canada.

If the refugee is a minor with no known relatives to support her or him overseas but who has extended family in Canada, refer the case to the Matching Centre, which in turn will refer the case to the RHQ concerned. RHQ will contact the relative(s) to discuss their willingness and ability to provide support to the minor. RHQ will at the same time ensure that provincial requirements regarding guardianship are met and where appropriate, arrange a home visit with the provincial authorities responsible for youth protection. Should the relative be unable to support or assist the minor, RHQ will seek the assistance of the provincial authorities. As procedures vary from province to province, it is important to consult SRE.

If the refugee is a minor with no known relatives to support him or her either overseas or in Canada and resettlement is still the best solution, refer the case to the Matching Centre. The profile of the minor will help the Matching Centre in determining the most appropriate receiving community and the province where the case has a reasonable chance of being accepted. Referral to RHQ will follow accordingly with notification to you.

In either scenario, the RHQ needs to consult with a representative of the provincial youth protection authorities to obtain provincial concurrence. The Matching Centre will send you written confirmation when provincial concurrence has been obtained.

When provincial concurrence cannot be obtained, RHQ will notify the Matching Centre promptly. The Matching Centre will either refer the case to another RHQ or advise you that provincial concurrence could not be obtained. Should the case be referred to another RHQ, the Matching Centre will inform the visa office.

11.6 Elderly refugees and relatives

The principle of keeping families together outweighs establishment factors when you are examining elderly refugees. Specific consideration should be given to consideration of a traditional family household which could , and often does, include de facto and extended family members who are likely to be emotionally, socially and or financially dependent or interdependent and who are likely to live in the same household.

Elderly refugees with sons or daughters in Canada should be examined sympathetically, and consistent with efforts to keep families united. Those who are not likely to enter the labour force should be processed as CR5s, with a request for contributions where appropriate. In these cases you will need to contact the Matching Centre.

Elderly refugees with other, more distant, relatives in Canada should be examined sympathetically, regardless of immigration category. Those who are not likely to enter the labour force should be strongly considered as CR5s and you should make a request for contributions where appropriate (refer to OP16) .

These principles apply equally to elderly refugees who should be considered as family members, although no immediate relationship may exist. They may be members of an extended family which has been accepted for resettlement, or depend upon another family (perhaps unrelated, but which constitutes a *de facto* family unit) which has been accepted. When considering the nature of dependence, you will want to examine a range of factors, including the degree of economic and social dependence over a period of time. For further guidance on these considerations, please contact SRE.

Elderly refugees without close family ties in Canada or not accompanied by family members who could provide support once the family is resettled can be considered under the Special Needs category. If you encounter an elderly refugee with compelling protection needs, you should consider the individual under the refugee program. In such cases you should weigh the need for protection against any concerns regarding the ability of the applicant to establish successfully in Canada. A Joint Assistance Sponsorship might be appropriate if you believe that eventual establishment in Canada is a reasonable possibility with the extra assistance provided through this type of resettlement arrangement (please refer to Section 6.9 above on processing requests from applicants with extended families).

This section remains subject to ongoing review and more or revised information will be made available by way of OM or a revision to OP 4 in the future.

12 QUEBEC

This section has been drafted in conjunction with the Service de l'Immigration du Québec.

Refugees destined to Quebec fall under the *Canada/Quebec Accord on Immigration*. The *Immigration Act, 1978* advocates the strengthening and enrichment of Canada's cultural and social heritage, taking into account the federal and bilingual character of Canada. The establishment of refugees in Quebec enables Quebec to assume its share of responsibility with respect to humanitarian considerations and contributes to the social and cultural enrichment of the province, considering its specifically French character.

12.1 The Canada/Quebec Accord

Under the *Canada/Quebec Accord relating to Immigration and Temporary Admission of Aliens*, Quebec has sole responsibility for the overseas selection of refugees and persons in similar circumstances.

The *Canada/Quebec Accord* has a number of provisions concerning the division of responsibilities between Canada and Quebec.

In accordance with its international obligations, Canada shall determine who is a refugee within the meaning of the United Nations Convention relating to the Status of Refugees, and who are persons in similar circumstances in need of Canada's protection.

Thus, you are responsible for determining which applicants are Convention refugees who are seeking resettlement or members of the Country of Asylum or Source Country classes.

Refugees and persons in similar circumstances identified by Canada who are destined to Quebec and who meet Quebec's selection criteria shall be admitted by Canada if they are not inadmissible under the law of Canada.

Thus, you determine admissibility on statutory grounds.

Canada shall not admit a refugee or person in similar circumstances identified by Canada who is destined to Quebec but who does not meet Quebec's selection criteria.

Thus, SIQ counsellors determine whether a refugee will successfully establish in Quebec.

12.2 What are the responsibilities of the SIQ?

The Ministère des Relations avec les citoyens et de l'Immigration (MRCI) sets a three-year plan to determine the level of immigration, by class, in Quebec. Following consultations with CIC, MRCI sets selection targets for each of its SIQ offices for the following calendar year. Selection targets are assigned for refugees and persons in similar circumstances.

To select the applicants most likely to integrate into Quebec society and remain in Quebec, SIQ immigration counsellors consider the following factors:

- language skills, i.e., whether the applicant is francophone or allophone, and not anglophone;
- family situation, giving priority to families with children, followed by couples without children and single persons;
- motivation for establishing in Quebec, such as relatives and friends already in the province;
- personal qualities, such as vitality and initiative and, as indicators, education, training and work experience; and

- support programs which exist through group sponsorship and PAIR (Programme d'accueil et d'installation des réfugiés).

12.3 What are the procedures for government-assisted refugees?

Government-assisted refugees will be referred first to you. You must determine whether an applicant is a Convention refugee seeking resettlement or a member of the Country of Asylum or Source Country classes. Having done so, consider referring applicants in the following categories to the SIQ:

- applicants who have family or friends in Quebec, or who indicate an interest in going there; and
- applicants who do not speak either English or French.

The SIQ immigration counsellor will consider the applicant under Quebec's criteria. This can be done with a separate interview or through a file review, depending on the arrangements that have been made with the SIQ office concerned. If Quebec accepts the applicant, a Certificat de Sélection du Québec (CSQ) is issued (see APPENDIX B for a complete list of MRCI/SIQ codes). Processing for statutory requirements continues at the CVO.

Once all requirements are met, send a DMR. (See Section 15 and 16 for instructions on how to send a DMR and NAT).

Refugees destined to Quebec have access to the Programme d'accueil et d'installation des réfugiés (PAIR) and to financial support from Quebec upon arrival.

12.4 What are the procedures for privately-sponsored refugees?

Quebec has sole responsibility for the program for the group sponsorship of persons in situations of distress who are destined to Quebec. This being the case, it is the sole contact for groups and agencies in Quebec that wish to sign an undertaking or group sponsorship framework agreement.

The sponsoring group may be a group of five Quebec residents or a non-profit agency. This agency may have concluded a group sponsorship framework agreement with Quebec.

In addition to Convention refugees seeking resettlement and members of the Country of Asylum and Source Country classes, Quebec will also be able to use its own humanitarian class to select applicants covered by group sponsorship (see subparagraph 18(c) (iii) of the *Regulation respecting the selection of foreign nationals*, which is the counterpart of section 2.1 of the *Immigration Regulations*).

An undertaking of sponsorship for a refugee sponsored by a group of five or an agency will be sent to you. Once you have opened a file and made a decision on class membership, you should then transfer the file to the SIQ, which, being solely responsible for reviewing ability to establish, will make its own selection decision.

Sponsored refugees in Quebec are not eligible for PAIR upon arrival in Quebec or for financial support from Quebec.

12.4.1 Unaccompanied minors

Unaccompanied minors ("enfant mineur non-accompagné" - EMNA) are refugees under 18 years of age who have been sponsored by a Quebec host family. Host families must undergo a psycho-social evaluation by the Ministère de la Santé et des Services Sociaux and submit an undertaking of assistance for the unaccompanied minor.

12.4.2 Self-supporting refugees

Financially independent refugees are not eligible for PAIR except under exceptional circumstances.

12.4.3 Joint Assistance Sponsorship

The Joint Sponsorship Program is exclusively for refugees and members of a designated humanitarian class who have special needs. This may include persons who:

- have a physical disability or need medical care

  or

- have been victims of torture or other trauma, including women at risk.

The two-year joint sponsorship undertaking is signed by Sponsorship agreement holder (SAH).

Forward these applications to the SIQ. Before issuing a CSQ, the SIQ must obtain authorization from MRCI. Refugees selected under this program are eligible for PAIR in Quebec and are financially supported by Quebec.

13 PROVINCES OTHER THAN QUEBEC

Immigration, including refugee resettlement, is an area of concurrent federal and provincial jurisdiction. Federal-provincial agreements and letters of cooperation provide the framework for discussing immigration and refugee issues. Open and consultative relationships have been established with the provinces and territories over the last few years, including those which do not have a formal agreement with the federal government on immigration and refugee issues. The detailed consultations on the legislative review proposals and the humanitarian evacuation and settlement of Kosovar refugees are the most recent examples of federal-provincial cooperation. Section 7 of the Canada - Saskatchewan Immigration Agreement of March 1998 deals with Humanitarian Immigration. Section 6.6 through 6.8 in the section entitled Selection, Admission and Control of the Agreement for Canada - British Columbia Co-Operation on Immigration of May 19, 1998 deal specifically with Convention refugees seeking resettlement and persons selected under the Humanitarian Designated Classes. The Canada - Manitoba Agreement to Realign Responsibilities for Immigrant Settlement Services of June 29, 1998 covers "specified humanitarian groups resettled from abroad."

14 IMMIGRATION LOANS

For information on Immigration loans for refugees please see chapter 16 of the OP manual (OP16).

As of February 28, 2000 the Right of Landing Fee (ROLF) was eliminated for applicants accepted for immigration to Canada as Convention refugees seeking resettlement and members of the Humanitarian Designated Classes. For details on the elimination of the ROLF, refer to OM IP 00-01, IR 00-02.

15 DESTINATION MATCHING REQUEST (DMR)

Two distinct processes are used to destine refugees selected abroad to a selected destination in Canada, the Pre-Approved Plan and Destination Matching Requests.

15.1 Pre-Approved Plan (PAP)

At the end of each calendar year, the Refugees Branch, in consultation with missions abroad and CIC Regions in Canada, prepares a target arrivals plan for the upcoming year. This Pre-Approved Plan provides a distribution of mission targets to cities of final destination in Canada. It is generally used by larger refugee processing missions.

The Pre-Approved Plan essentially does away with the need for missions to submit Destination Matching Requests (DMRs) to the Matching Centre at CIC National Headquarters (NHQ).

In 2000, the plan should be available for all refugee-processing missions.

15.2 What is a DMR?

Destination Matching Requests (DMRs) are tools for obtaining destinations in Canada where a Pre-approved Plan is not in use. When applicants know little about Canada and have no contacts here, the Matching Centre determines to which city they will go. NHQ consults with provincial authorities to develop an annual plan of destinations for refugees.

When Matching Centre staff receive a DMR, they consider areas where applicants have family or friends, where socio-ethnic and employment conditions best suit the individuals concerned or where other services, such as centres for survivors of torture, are located. After weighing these factors a province of destination is assigned.

The DMR is then forwarded to the appropriate region, which specifies the city or town to which a refugee will go. For refugees destined to Quebec, destinations are assigned directly to you by the MRCI.

If you are unable to book a flight and send a NAT (Notification of Arrival Transmission) within three months of receiving notice of a destination, you should consider that destination cancelled and must send a new DMR for that refugee.

15.3 What is the format for a DMR?

DMRs should be addressed as follows:

To: Matching_Centre@8502SRE

In the event of an electronic communications failure, fax DMRs to the Matching Centre at (613) 957-5849.

FOR QUEBEC CASES:To: Matching_Centre@8502SRE

cc: MRCI by fax (514) 864-2080

The Matching Centre will forward a copy of the DMR to the appropriate region(s). DMRs will be confirmed by the Matching Centre within ten working days. If you have not received a response within this period, send the DMR again indicating that it is a duplicate, with a backup by facsimile.

Information to be included on a DMR and the order in which it should appear:

Each message should be entitled "DMR" and indicate the name of the visa office sending it. It should be numbered sequentially beginning at 001 followed by the year in which the refugees will be travelling, e.g. NROBI DMR 0001/00. No more than 50 persons should be included on a single DMR.

a) Family number (each separate family unit indicated);

b) Person number (each person numbered consecutively);

c) File number;

d) Surname;

e) Given names;

f) Date of birth;

g) Sex;

h) CLPR;

i) Relationship within family;

j) Languages spoken;

k) Years of education;

l) Occupation;

m) Years of work experience;

n) Immigration category;

o) Contacts in Canada, including name, address, telephone number (if available) of relative or friend;

p) Other information which may have a bearing on choice of final destination (e.g. presence of family or friends, special needs etc.); and

q) CSQ number for cases in which a Quebec destination is requested.

Example of a DMR

To: Matching_Centre@8502SRE
cc: MRCI (fax (514) 864 2080)

BNGKK DMR 001/97
1(1) B012345678 (DUONG) TAN TRAN 13 MAY 49 M VIET HOF VIET 11 PLUMBER
8 CR1 NO CONTACTS IN CANADA
(2) (PHAN) LY 21MAR51 F VIET WIFE VIET 8 EMBROIDERER 6
(3) (DUONG) VAN QUAN 05DEC76 M SON
2(4) B012356789 (NGUYEN) DUC THI 15JAN51 M VIET HOF ENG/VIET 13 INTERPRETER 5 CR1 HAS UNCLE (DO) TRI DONG RESIDING 201 YONGE ST, TOR
234 5678
(5) (VAN) THI DAO 19NOV54 F WIFE VIET 9 SHOEMAKER 2
3(6) B012367890 (NGO) VAN HONG 23MAR62 M SINGLE VIET 10 CARPENTER 9
CR1 HAS COUSIN (NGUYEN) DO TAN RESIDING 19 RUE CATHERINE MONTL, - CSQ 4000 9000
88

16 NOTIFICATION OF ARRIVAL TRANSMISSION (NAT)

16.1 What is a NAT?

A Notification of Arrival Transmission (NAT) advises the local CIC and Service provider organization (SPO) of the date of arrival and flight details of the refugee, and of pertinent details such as the names of sponsors, onward travel arrangements to final destinations, and special needs (e.g. wheelchair required), etc. A NAT is sent for all Convention refugees seeking resettlement and members of the Country of Asylum and Source Country Classes (even those making their own travel arrangements). Those with the same itinerary and travel dates should be on the same NAT. On receiving a NAT, the port of entry (POE) makes arrangements for reception at the airport, travel to the final destination, and notification of sponsors.

Local CICs require adequate notice of person(s) arriving in their area to arrange reception, accommodation, interpreter services, etc. at the community level. If following transmission of a NAT a refugee's travel arrangements change or are cancelled, you must send a cancellation NAT with a brief explanation if available. This will save reception services and private sponsors the expense and effort of preparing for the refugee's arrival.

NATs are required to maintain accurate statistics.

16.2 Scheduling

Refugees must arrive at their final destination in Canada no later that 22:00 hours (local time), Monday through Thursday. Avoid scheduling arrivals on holidays and weekends whenever possible, as CIC and non-governmental settlement services are limited on those days.

Passengers need a minimum of four hours at the port of entry to allow for landing procedures, customs clearance, and transportation to connecting flights or overnight accommodation. If you cannot schedule arrival at the final destination before 22:00 hours, make arrangements for overnight accommodation at the port of entry, including ground transportation from and to the airport. Avoid early morning flight departures to the final destination. Such flights should be after 10:00 a.m. where possible.

Matching Centre must receive NATs at least 10 working days before the refugee's arrival date. When an amendment to a NAT is necessary (eg. change of final destination, change of flight itinerary, cancellation, etc.), you must advise the Matching Centre immediately.

16.3 Managing arrivals

It is critical that the flow of refugee arrivals be evenly distributed throughout the year. A large number of arrivals at one time puts a severe strain on settlement services. You are therefore requested to plan selection and departures in order to maintain a relatively even flow of refugee arrivals over the course of the year (see Travel Guidelines in APPENDIX N).

The in-Canada regions participate in a similar exercise to that of the visa offices abroad for the distribution of resettlement targets within Canada. Under the Resettlement Assistance Program (RAP), financial resources are approved for regions to provide income support and a range of immediate essential services for government-assisted refugees. The level of financial resources transferred to regions is based upon annual targets established for each province.

A relatively even flow is necessary to ensure that the infrastructures in place and the resources available can meet the service needs. Uneven flows, departures from the established annual targets and departures from the arrivals planning exercise (i.e., the Pre-Approved Plan) will jeopardize the delivery of services to arriving refugees. The resources available come from the fixed resources of RAP, with little flexibility to cover the cost of departures from the annual planning and budget exercise.

16.4 What is the format for a NAT?

NATs should be addressed as follows:

To: Matching_Centre@8502SRE

In the event of an electronic communications failure, please Fax NAT to Matching Centre at (613) 957-5849.

FOR QUEBEC CASES:To: Matching_Centre@8502SRE

cc: MRCI by Fax (514) 864-2080

The Matching Centre is responsible for accurate and timely distribution of NATs within Canada. The Matching Centre will acknowledge reception of a NAT by return e-mail. If you do not receive an acknowledgement message by the next business day, send the NAT again immediately. Until you receive an acknowledgement, you must assume that the Notification has NOT been received. Flag any special requirements cases.

Information to be included in the NAT, and its format:

Each message must be entitled "NAT" and numbered sequentially beginning at 0001 at the start of each calendar year, i.e., NAT 0001/00, followed by point of origin, port of entry, date of arrival and flight details. No more than 50 persons should be included on a single NAT.

a) Family number (each separate family unit indicated);

b) person number (each person on NAT numbered consecutively);

c) file number;

d) surname;

e) given names;

f) date of birth;

g) sex;

h) CLPR;

I) relationship within family;

j) languages spoken;

k) immigration category, special program code;

l) final destination (CIC or CEC at final destination);

m) DMR reference (DMR number);

n) name of sponsor, CIC file number (if any);

o) onward travel arrangements to final destination;

p) visa or permit serial number; and

q) special needs or other e.g. wheelchair required, or accompanied by pets etc.

17 PASSPORTS AND TRAVEL DOCUMENTS

See also OP15 for more information.

17.1 What is required of Convention refugees seeking resettlement and members of the designated classes?

Refugees often leave possessions behind. They may also be unable to get a passport or fear applying for one. Persons considered to be refugees are not required to have a national passport or travel document for admission to Canada. R14(2)(a) exempts Convention refugees seeking resettlement with valid and subsisting immigrant visas from the requirement to present a valid passport. The *Humanitarian Designated Classes Regulations* also exempt eligible applicants from obtaining a passport.

While these exemptions exist in our immigration legislation, they often create difficulties at international airports. There are several ways to help refugees without passports to travel to Canada. Often IOM staff or visa officers accompany them to the airport. Such escorts are able to facilitate departure with airline check-in staff and host country immigration officials.

Refugees without travel documents who must transit foreign airports risk being mistaken for improperly documented passengers. If you expect that a refugee will encounter difficulties with immigration authorities while in transit, you may ask the visa office responsible for the transit point to inform airline staff and immigration officials there that refugees with IMM 1000s but no passports are properly documented.

17.2 Travel documents

The International Committee of the Red Cross (ICRC) may issue a travel document to facilitate a journey. Applicants who cannot travel with just an immigrant visa may apply for it. They may need exit permits or transit visas, which must be affixed to a travel document.

Local ICRC offices receive applications for ICRC travel documents. Applicants submit an application form, photographs and fingerprints. As the ICRC travel document has a limited validity of only up to 3 months, applicants should wait until they meet all other immigration requirements before requesting it.

It is important to note that the ICRC does not verify identity and that the travel document is not secure. It is not intended to replace national passports or travel documents. You should agree on guidelines for requesting this document with the local ICRC office and do so only when necessary. When the refugee arrives in Canada, the Port of Entry officer collects the ICRC travel document and returns it to the ICRC.

In exceptional circumstances, the UNHCR may issue a "Provisional Travel Certificate". Such documents are given in extraordinary circumstances when no other travel document can be obtained by the refugee. They are good for a single journey only.

Program managers are encouraged to enter into formal arrangements with host countries so that they recognize IMM 1000 and Minister's permit as acceptable exit documents.

18 RELATIONS WITH INTERNATIONAL AGENCIES

A good working relationship with organizations dealing with refugees in your area can be critical to the success of a resettlement program. You should maintain regular contact with the UNHCR, IOM, ICRC and NGOs working with refugees, and ensure that they understand Canada's resettlement program. See APPENDIX E for a sample information sheet for referral agencies, or other organizations or persons seeking information on the criteria of the resettlement program.

18.1 United Nations High Commissioner for Refugees (UNHCR)

The office of the UNHCR is a humanitarian and non-political organization with a mandate to protect refugees and promote solutions to their problems. Solutions may include voluntary repatriation, local integration and in exceptional cases, resettlement in a third country.

Local UNHCR offices identify persons in need of resettlement and refer them to visa offices. They may also help find candidates for private sponsors. The factors which the UNHCR takes into consideration when it refers a case for resettlement are described in detail in the *UNHCR Resettlement Handbook*, a copy of which can be found in all visa offices. You should be familiar with these factors. The text of the handbook is also available from the UNHCR Web site at

http://www.unhcr.ch/resettle/handbook/

The office of the UNHCR is an extremely important partner in Canada's overseas resettlement program. Solid working relations between Canadian visa offices and local UNHCR offices are vital to the success of the program. You should ensure that your local UNHCR office understands the Canadian resettlement program and be proactive in requesting referrals of appropriate cases.

18.2 International Organization for Migration (IOM)

The International Organization for Migration (IOM) has a primary mandate to make arrangements for the organized transfer of immigrants, including refugees, displaced persons and other individuals in need of international migration services. It arranges transportation and medical examinations for refugees, but no longer offers the Language Instruction for Newcomers to Canada (LINC). The IOM does provide a new more in-depth Canadian Orientation Abroad (COA) program on a contractual basis to refugees and immigrants before they arrive in Canada. You are encouraged to identify situations in which it may be beneficial for Canada to operate programs of this type.

Canada is a full member of IOM and works closely with the organization. You should ensure regular contact with the IOM office or representative in your area. The IOM has its headquarters in Geneva and has 72 offices around the world. It has a Web page at http://www.iom.int/

18.3 Other organizations

Many NGOs, church groups and aid organizations work with refugees around the world. As a result of their close contact with refugees, such groups may be in a position to recommend candidates for resettlement in Canada. Where appropriate, you should establish contacts with such groups present in your area of responsibility in order to explain Canada's resettlement criteria and to discuss the possibility of referrals for resettlement. In the future Canada will also be contracting with well-known International NGOs to deliver the Canadian Orientation Abroad (COA) program on a contractual basis.

19 REVIEWS OF REFUSED REFUGEE APPLICATIONS

19.1 Informal review of refusals

Applicants whose cases have been refused often write to the visa office, Refugees Branch or the Minister requesting a review of the refusal decision. You must enter such requests in CAIPS or place them on file and review the information. In some cases the applicant may provide new information or claim now to be a victim of changed circumstances; this may change your decision or cause you to convoke another interview. On the other hand, the letter may contain no new information and you will decide to maintain the refusal. In either case you must respond to the applicant and enter the response in CAIPS. The onus, however, is on the applicant to provide all relevant evidence and information at his disposal in support of the application at the time of the initial interview.

19.2 Judicial review of refusals

The *Immigration Act* does not, in general, provide for a direct appeal of visa officer decisions, with the exception of the right of appeal granted to the sponsors of applications under the Family Class contained in section 77 of the I*mmigration Act*.

As with most other decisions and orders made under the *Immigration Act*, a refugee applicant or a person applying under the *Humanitarian and Designated Class* (HDC) *Regulations* who is refused abroad can seek judicial review before the Federal Court of Canada (Trial Division).

Judicial review is not the same as an appeal. Under judicial review, the remedies available are more limited. In particular, a court proceeding by way of judicial review does not have the power to substitute its decision for that of the original decision-maker. Instead it can only quash the decision and send it back to the original decision-maker. A decision would be vulnerable to judicial review if the decision-maker:

(a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;

(b) failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe;

(c) erred in law in making a decision or an order, whether or not the error appears on the face of the record;

(d) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it;

(e) acted, or failed to act by reason of fraud or perjured evidence; or

(f) acted in any other way that was contrary to law."

(18.1(4) of the *Federal Court Act*)

A more detailed explanation of the concept of judicial review can be found in Chapter 9 of the Enforcement and Control Manual.

Leave to apply to the Federal Court for judicial review of a decision to refuse an application as a Convention Refugee or under the HDC regulations is not required (A 82.1(2)). An application for judicial review must be made within 30 days of the date on which the decision was communicated to the applicant (18.1(2) of the *Federal Court Act*). Decisions of the Federal Court (Trial Division) may be appealed to the Federal Court of Appeal only if the trial judge has "certified that a serious question of general importance is involved" (83(1) of the *Federal Court Act*).

20 REPORTING AND LIAISON

The consistency and effectiveness of the Refugee and Humanitarian Resettlement Program depends on both timely and sensitive processing of applications, and reporting and liaison concerning issues and developments that affect refugee resettlement.

All visa offices should report regularly to the Resettlement section (SRE) of Refugees Branch, with a copy to the IR geographic - or vice versa - and to the Canada permanent Mission in Geneva on the following matters:

- international migration and population movements and related human rights developments;
- situations related to mass inflows or outflows of people; and
- background information on root causes, circumstances and routes of flight, reactions and attitudes of local government authorities and international organizations, special protection needs.

Posts with a mandate to cover for 'countries of origin' should try to report on country conditions when significant changes of circumstances occur, and make the link to the various durable solutions. For example, improved conditions in governance, societal infrastructure and observance of fundamental human rights may lead to a general conclusion that repatriation is a possible solution for many refugees.

Visa offices with target allocations should report to SRE descriptions of the refugee populations within their area of responsibility, including information on locations, accessibility, perceived need for resettlement, and concerns expressed by UNHCR Branch Offices in the region.

You should also report regularly to SRE:

- a description of your refugee caseload;
- your workplan to meet overall and Quebec targets;
- a forecast of anticipated numbers of refugee and humanitarian class applicants in (1, 2, 3 years)
- the number of urgent protection or vulnerable groups cases and the need for JAS;
- implementation of the refugee and Humanitarian Designated Classes; and
- particular problems or difficult issues, innovative strategies, issues related to the management of the program, and proposals for change.

Refer to the *International Service Reporting and Liaison Handbook* for further, more detailed information on your reporting responsibilities.

21 THE ROLE OF THE IMMIGRATION CONTROL OFFICER AND REFUGEES

The primary role of Immigration Control Officers (ICOs) is to prevent illegal immigration by reducing the number of inadequately documented passengers travelling through the country (or countries) within their mandate. As representatives of CIC, ICOs must be familiar with the other objectives of the overseas immigration program, including the resettlement of those refugees who meet program criteria. ICOs are also referred to as Immigration Liaison Officers, because providing a liaison with transportation companies and other organizations is central to their work.

Preventing illegal immigration most often involves preventing persons from travelling to Canada who are not in possession of the required travel documents or visas, or who are using forged or otherwise altered documents. When such persons request asylum, ICOs have standing instructions to refer such cases to the UNHCR or to the appropriate diplomatic mission (for further details, contact the Training Division for a copy of the *ICO Training Course* module and the International Air Transport Association Control Authority Working Group (IATA/CAWG) *Code of Conduct for Immigration Liaison Officers*).

Operational instructions to ICOs (Interception and Protection of Refugees) on the issue of refugee protection include the following:

During program review the Minister stated that officers involved in the delivery of the overseas interdiction program should be sensitive to the protection needs of genuine refugees who may be intercepted in the course of their interdiction work.

Officers involved in interdiction work should be aware of the possibility that genuine refugees could be intercepted during their screening of passengers and that such deserving individuals should be afforded the necessary protection. The response of our officers in most cases should be to try to put such individuals in contact with the appropriate authorities which have a mandate to extend protection.

Your approach to such situations will vary depending upon the particular location where the potential refugee is intercepted. In most locations the local UNHCR office would be the proper authority with the mandate to extend protection and such individuals interdicted in the course of your control work should be put in contact with their office. In locations where the UNHCR does not have an office or mandate, there may be NGOS involved in refugee or human rights issues that could intercede to provide protection. In some instances these organizations may in turn refer these same individuals to our missions for possible immigration to Canada. Interdiction of such individuals would not preclude their consideration for resettlement to Canada as refugees.

APPENDIX A
COUNTRIES WHOSE NATIONALS WOULD BE ADMISSIBLE FOR SOURCE COUNTRY CLASSIFICATION

- Bosnia-Herzegovina
- Croatia
- El Salvador
- Colombia
- Guatemala
- Sudan
- Democratic Republic of the Congo

Source: Schedule 1 of the *Humanitarian Designated Classes Regulations*, 1999. Schedule 1 is reviewed annually for changes.

APPENDIX B

CIC CODING FOR RESETTLEMENT CATEGORIES

CONVENTION REFUGEE SEEKING RESETTLEMENT CLASS

CR1 -Convention refugee seeking resettlement, government assistance required for up to 12 months

CR3 -Convention refugee seeking resettlement, sponsored by a group of five or corporation for up to 12 months

CR4 -Convention refugee seeking resettlement, self-supporting, government assistance not required

CR5 -Convention refugee seeking resettlement, special needs case selected under Joint Assistance Sponsorship

CRX -Convention refugee seeking resettlement, sponsored by a group or corporation for 12-24 months

SOURCE COUNTRY CLASS (Resettlement-Source)

RS1 -Source Country, government assistance required for up to 12 months

RS3 -Source Country, sponsored by a group of five or corporation for up to 12 months

RS4 -Source Country, self-supporting, government assistance not required

RS5 -Source Country, special needs case selected under Joint Assistance Sponsorship

RSX -Source Country, sponsored by a group of five or corporation for 12-24 months

COUNTRY OF ASYLUM CLASS (Resettlement-Asylum)

RA3 - Country of Asylum, sponsored by a group of five or corporation for up to 12 months

RA4 - Country of Asylum, self-supporting, government assistance not needed

RA5 -Country of Asylum, special needs cases selected under Joint Assistance sponsorship

RAX -Country of Asylum, sponsored by a group of five or corporation for 12-24 months.

DESIGNATED CLASS* (repealed May 1, 1997)

DC1 -Designated Class, government assistance required

DC3 -Designated Class, sponsored by a group or corporation

DC4 -Designated Class, self-supporting, government assistance not required

DC5 -Designated Class, selected under Joint Assistance Sponsorship

* Use DC codes to complete cases where decision to approve/refuse was made before May 1, 1997.

POST-DETERMINATION REFUGEE CLAIMANTS IN CANADA

PD1 -Member of the Post-determination Refugee Claimant in Canada class and dependants residing in Canada

PD2 -Dependant of a member of the Post-determination Refugee Claimant in Canada class residing abroad.

DEPENDANTS OF A CR8 REFUGEE

DR1 -Dependant residing in Canada of a CR8

DR2 -Dependant residing abroad of a CR8

NB: CR8s are Convention Refugees and their dependants who are recognized as Convention Refugees in their own right by the IRB. If all members of a family have been recognized as refugees by the IRB, they will all be coded CR8.

MRCI/SIQ coding

R1/D1 -Government-assisted refugees

R2/D2 -Refugee sponsored by a family member

R3/D3 -Unaccompanied minor

R4/D4 -Financially independent refugee

R5/D5 -Joint Assistance Sponsorship

R7/D7 -Refugees with relatives in Quebec who are financially unable to submit an undertaking of assistance

R9/D9 -Refugee sponsored by a private group

APPENDIX C
GLOBAL REFUGEE RESETTLEMENT TARGET

Year 2000 overseas refugee resettlement target	
Refugee Category	**Range**
Government-assisted	7300
Privately Sponsored	2800 - 4000
Refugees Landed in Canada	10000 - 15000
Dependants Abroad	2000 - 3000
Totals	**22100 - 29300**

Year 2000
Visa office target allocations

		Overall target	Quebec Target	Non-Quebec Target
AFRICA	**1900**			
ACCRA		200	100	100
CAIRO		400	0	400
NAIROBI		1200	200	1000
PRETORIA		100	25	75
MIDDLE EAST	**800**			
DAMASCUS		800	200	600
EUROPE	**2700**			
VIENNA		1750	400	1350
MOSCOW		50	25	25
ANKARA		610	115	495
KIEV		10	5	5
BONN/BERLIN		0	0	0
ROME		250	55	195
LONDON		30	5	25
ASIA & PACIFIC	**1300**			
BANGKOK		50	15	35
ISLAMABAD		725	125	600
NEW DELHI		525	125	400
LATIN AMERICA	**600**			
GUATEMALA		100	25	75
MEXICO		25	15	10
BOGOTA		450	350	100
HAVANA		25	15	10
ALL WORLD AREAS	**7300**	**7300**	**1800**	**4150**
OVER-ALLOCATION		**0**	**0**	**0**

Comparison of 1999/2000 Refugee Resettlement Targets

Government-assisted refugees

MISSIONS BY REGION	1999 Targets	2000 Targets	Changes (+/-) from 1999
Accra	80	200	+120
Nairobi	725	1200	+475
Cairo	300	400	+100
Pretoria	50	100	+50
AFRICA	**1155**	**1900**	**+745**
Damascus	375	800	+425
MIDDLE EAST	**375**	**800**	**+425**
Ankara	550	610	+60
Vienna	1600	1750	+150
Belgrade	930	0	-930
Moscow	40	50	+10
Bonn	1725	0	-1725
Kiev	5	10	+5
Paris	40	0	-40
London	5	30	+25
Rome	0	250	+250
EUROPE	**4895**	**2700**	**-2195**
Bangkok	35	50	+15
Islamabad	525	725	+200
New Delhi	325	525	+200
Hong Kong	6	0	-6
ASIA & PACIFIC	**891**	**1300**	**+409**
Guatemala	60	100	+40
Mexico	15	25	+10
Havana	15	25	+10
Bogota	90	450	+360
LATIN AMERICA	**180**	**600**	**+420**
ALL WORLD AREAS	**7506**	**7300**	**-206**

1999 Government-Assisted Refugees-Levels Plan by Destination Province

Newfoundland	125
Nova scotia	178
Prince Edward Island	50
New Brunswick	137
Quebec	2000
Ontario	2250
Manitoba	540
Saskatchewan	440
Alberta	780
British Columbia	800
ALL Provinces	**7300**

APPENDIX D
IMMIGRATION FORMS AND DOCUMENTS USED IN PROCESSING REFUGEE RESETTLEMENT APPLICATIONS

FORM	TITLE	PURPOSE
Forms for use outside Canada:		
IMM 0008EIND (IMM 0008)	Immigrant Application Form B INDEPENDENT (and Convention Refugee)	To apply for resettlement to Canada as a Convention Refugee
IMM 5406E	Additional Family Information (IMM 0008)	Part of IMM 0008 application kit to list additional family members
IMM 0500E	Immigrant Loans	To authorize transportation loans, right of landing fee loan and admissibility loan
IMM 1000	Immigrant Visa and Record Of Landing	Verification that immigrant/refugee was landed
IMM 1000CONB	Immigrant Visa and Record Of Landing	Identification that immigrant/ refugee was landed (this continuous version to be used in posts with CAIPS)
Forms for use in Canada:		
IMM 5414E	Kit number only for "Private Sponsorship of Refugees"	
IMM 5373E	Undertaking to Sponsor Convention Refugees Seeking Resettlement and Members of the Source Country and Asylum Country Classes	To provide an undertaking to sponsor a refugee or member of a designated class by a Constituent Group of a National Organization (To replace IMM 1266, 1268 and 1300) (Part of IMM 5414Kit)
IMM 5373EB	Settlement Plan	Part of IMM 5414 Kit
IMM 5373EB	Financial Profile - Group Of Five	Part of IMM 5414 Kit

APPENDIX E

IMPORTANT INFORMATION FOR PERSONS CONSIDERING APPLYING FOR RESETTLEMENT IN CANADA AS CONVENTION REFUGEES OR AS MEMBERS OF THE COUNTRY OF ASYLUM AND SOURCE COUNTRY CLASSES

If you feel that you would qualify in one of the classes described below and would meet the criteria for immigration to Canada, you should complete the accompanying application form and submit the required documents to your nearest Canadian visa office

Who can immigrate to Canada under the *Convention refugee and Country of Asylum and Source Country Classes* programs?

The requirements for immigrating to Canada as a Convention Refugee are set out in the *Immigration Act* and the *Immigration Regulations, 1978*.

The requirements for immigration to Canada as a member of the country of Asylum Class or the Source Country Class are set out in the *Humanitarian Designated Classes Regulations*. Any application made to immigrate to Canada under these classes will be assessed against those criteria. A summary of the main points may be found below.

Do you qualify as a Convention refugee seeking resettlement?

The word "Convention", in the term Convention refugee, refers to the *United Nations Convention relating to the Status of Refugees* to which Canada is a signatory.

The term '*Convention refugee*' is defined in the *Immigration Act*, and means any person who:

(a) by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(i) is outside the country of the person's nationality and is, unable or by reason of that fear, unwilling to avail himself of the protection of that country

(ii) not having a country of nationality, is outside the country of the person's former habitual residence and is unable or, by reason of that fear, is unwilling to return to that country,

and

(b) has not ceased to be a refugee,

but does not include any person to whom the Convention does not apply.

The *Immigration Act* outlines five situations which define when a person ceases to be a refugee. Cessation comes into effect when a person:

- voluntarily re-acquires his nationality;
- voluntarily re-avails himself of the protection of his country of nationality
- acquires a new nationality and enjoys the protection of that country
- voluntarily re-establishes himself in the country which he left or outside of which he remained for fear or persecution, or
- the reasons for the fear of persecution have ceased to exist (unless the person can establish that there are compelling reasons arising out of any previous persecution for refusing to avail himself of the protection of that country).

The *Immigration Act* also contains Sections E and F of Article 1 of the *United Nations Convention relating to the Status of Refugees* which outline categories of persons to whom the Convention and the *Immigration Act* do not apply. The Convention does not apply to persons for whom there exist serious reasons for considering that offences such as crimes against humanity, crimes against peace, acts contrary to the purposes and principles of the United Nations or serious non-political crimes outside the country of refuge have been committed

The *Immigration Regulations, 1978* specify that you also must be a person in respect of whom there is no possibility, within a reasonable period of time, of a durable solution.

The term '*Durable solution*' is defined in the *Humanitarian Designated Classes Regulations* and in the *Immigration Regulations, 1978*, and means:

- Voluntary repatriation to your country of nationality or permanent residence
- The resettlement of the refugee in his or her country of nationality or habitual residence, or local integration in the country of first asylum or a neighbouring country, or
- An offer of resettlement from a country other than Canada.

Note that in reaching a determination as to whether you have a well-founded fear of persecution, a visa officer may rely on a wide variety of human rights and country conditions information relating to country conditions in the country of alleged persecution and conditions of asylum in countries of first asylum. This information may be obtained from credible and reliable sources including governmental departments, international organizations and non-governmental organizations.

Do you qualify as a member of the Country of Asylum Class?

The Country of Asylum Class is Canada's response to the resettlement needs of persons in refugee-like situations who did not qualify as Convention refugees. The requirements for immigration to Canada as a member of the country of Asylum are set out in the *Humanitarian Designated Classes Regulations.*

In order to qualify under this program you must be:

- Outside Canada and outside your country of nationality or habitual residence and want to immigrate to Canada, and
- Have received a sponsorship for yourself and your dependants and
- Have financial and/or other assistance available in Canada or be able to establish to a visa officer's satisfaction that you have sufficient financial resources to provide for the lodging, care and maintenance and resettlement in Canada of yourself and your dependants.
- You must have been, and continue to be "seriously and personally affected" by civil or armed conflict or a massive violation of human rights in your country of nationality or habitual residence;
- There must be no possibility, within a reasonable period of time, of a durable solution.

The term "seriously and personally affected" relates generally to the degree to which an applicant's liberty and human rights has been affected by the prevailing situation in their home country. Applicants must be able to explain why they have personally suffered due to the hardships in their home country. They should have specific examples or explain why they have reasonable grounds to a) not remain there (if they are still in their home country) or b) not return home.

The term '*Durable solution*' is defined in the *Humanitarian Designated Classes Regulations* and in the *Immigration Regulations, 1978*, and means:

- Voluntary repatriation to your country of nationality or permanent residence
- The resettlement of the refugee in his or her country of nationality or habitual residence, or local integration in the country of first asylum or a neighbouring country, or
- An offer of resettlement from a country other than Canada.

Do you qualify as a member of the Source Country Class?

The Source Country Class addresses the protection and resettlement needs of persons who are residing in their country of nationality or habitual residence. The requirements for immigration to Canada as a member of the Source Country Class are set out in the *Humanitarian Designated Classes Regulations.* To qualify:

- Your country of nationality or habitual residence must be listed as a Source Country on the Schedule of Countries (see Important Words to Know), and
- You must be residing in that country

and

- You must be "seriously and personally affected" by the civil or armed conflict in your country,
- You must be, or have been, detained or imprisoned in that country, or be or have been subjected to some other recurring form of penal control as a direct result of acts which if committed in Canada would be considered legitimate expression of free thought or legitimate exercise of civil rights pertaining to dissent or trade union activity,

or

- You must meet the Convention refugee definition (see the section entitled 'Do you qualify as a Convention refugee') with the exception that you are residing in your country of nationality or habitual residence

Furthermore, there must be no possibility, within a reasonable period of time, of a durable solution.

The term "seriously and personally affected" relates generally to the degree to which an applicant's liberty and human rights has been affected by the prevailing situation in their home country. Applicants must be able to explain why they have personally suffered due to the hardships in their home country. They should have specific examples or explain why they have reasonable grounds to a) not remain there (if they are still in their home country) or b) not return home.

The term '*Durable solution*' is defined in the *Humanitarian Designated Classes Regulations* and in the *Immigration Regulations, 1978*, and means:

- Voluntary repatriation to your country of nationality or permanent residence
- The resettlement of the refugee in his or her country of nationality or habitual residence, or local integration in the country of first asylum or a neighbouring country, or
- An offer of resettlement from a country other than Canada.

Other Considerations that apply to ALL Refugee and Humanitarian Designated Class applicants

In reaching a determination as to whether you meet the criteria outlined in the *Immigration Act* and *Humanitarian Designated Classes Regulations*, a visa officer may rely on a wide variety of information from credible and reliable sources including governmental, international and non-governmental organizations.

A visa officer must also be satisfied that you will be able to eventually establish successfully in Canada. In making this determination, he or she will take into consideration such factors as your ability to speak English and / or French, your family composition and the age, education, skills and work experience of yourself and your family members, as well as, the personal suitability of yourself and your family members including such factors as adaptability, motivation, initiative and resourcefulness.

If you are accepted for immigration to Canada, you will also be required to undergo a medical examination as a part of the immigration application and this will include a x-ray. Should the results be unclear, you may be asked to see the medical practitioner more than once and if deemed necessary you may be asked to undergo medical treatment before a determination is made regarding your medical status.

Before any immigrant visa is issued, the Canadian government must be satisfied that you are not inadmissible under the *Immigration Act* and this includes background and criminality checks. As a part of the application process you may be asked to provide a police clearance certificate.

Please note that processing times for applications vary among visa offices.

Related Costs

There is NO processing fee for persons applying to immigrate to Canada as Convention Refugees seeking resettlement or for persons applying as members of the *Humanitarian Designated Classes* (Source Country or Asylum Country classes).

As of February 28, 2000 the Right of Landing Fee (ROLF) was eliminated for applicants accepted for immigration to Canada as Convention refugees seeking resettlement and members of the Humanitarian Designated Classes. For details on the elimination of the ROLF, refer to OM IP 00-01, IR 00-02.

Immigrant Loans

If you are accepted for immigration to Canada, you may be eligible for financial assistance through one or more of the following loans:

- A Transportation loan to cover the expense of travel to Canada
- An Admissibility loan to cover the costs of medical expenses related to your medical examinations
- An Assistance loan to cover living expenses for you and your dependants for the initial settlement period in Canada.

Information on these loans can be found in the publication entitled "The Right of Landing Fee and the Immigrant Loans program", which is available at all Canadian visa offices.

APPENDIX F

COUNTRIES WHICH HAVE SIGNED THE 1951 GENEVA CONVENTION AND THE 1967 PROTOCOL CONVENTION RELATING TO THE STATUS OF REFUGEES OF 28 JULY 1951

Date of entry into force: 22 April 1954 (Convention), 04 October 1967 (Protocol)

States Parties As of 9 September 1999:

Total Number of States Parties to the 1951 Convention: 134

Total Number of States Parties to the 1967 Protocol: 134

States Parties to both the Convention and Protocol: 130

States Parties to one or both of these instruments: 138

States Parties to the 1951 Convention only:

Madagascar, Monaco, Saint Vincent and the Grenadines and Namibia

States Parties to the 1967 Protocol only:

Cape Verde, Swaziland, USA and Venezuela

The dates indicated are the dates of deposit of the instrument by the respective States Parties with the United Nations Treaty Section in New York. In accordance with article 43(2), the Convention enters into force on the ninetieth day after the date of deposit. The Protocol enters into force on the date of deposit (article VIII(2)).

Most recent State Party:

Georgia 9 August 1999

Country	Signature	Ratification(r), accession(a), succession(s)	
		Convention	Protocol
Albania		18 Aug 1992 a	18 Aug 1992 a
Algeria		21 Feb 1963 s	08 Nov 1967 a
Angola		23 Jun 1981 a	23 Jun 1981 a
Antigua and Barbuda		07 Sep 1995 a	07 Sep 1995 a
Argentina		15 Nov 1961 a	06 Dec 1967 a
Armenia		06 Jul 1993 a	06 Jul 1993 a
Australia		22 Jan 1954 a	13 Dec 1973 a
Austria	28 Jul 1951	01 Nov 1954 r	05 Sep 1973 a
Azerbaijan		12 Feb 1993 a	12 Feb 1993 a
Bahamas		15 Sep 1993 a	15 Sep 1993 a
Belgium	28 Jul 1951	22 Jul 1953 r	08 Apr 1969 a
Belize		27 Jun 1990 a	27 Jun 1990 a
Benin		04 Apr 1962 s	06 Jul 1970 a
Bolivia		09 Feb 1982 a	09 Feb 1982 a
Bosnia and Herzegovina		01 Sep 1993 s	01 Sep 1993 s
Botswana		06 Jan 1969 a	06 Jan 1969 a
Brazil	15 Jul 1952	16 Nov 1960 r	07 Apr 1972 a
Bulgaria		12 May 1993 a	12 May 1993 a
Burkina Faso		18 Jun 1980 a	18 Jun 1980 a
Burundi		19 Jul 1963 a	15 Mar 1971 a
Cambodia		15 Oct 1992 a	15 Oct 1992 a

Cameroon		23 Oct 1961 s	19 Sep 1967 a
Canada		04 Jun 1969 a	04 Jun 1969 a
Cape Verde (P)			09 Jul 1987 a
Central African Republic		04 Sep 1962 s	30 Aug 1967 a
Chad		19 Aug 1981 a	19 Aug 1981 a
Chile		28 Jan 1972 a	27 Apr 1972 a
China (Peoples Rep. of)		24 Sep 1982 a	24 Sep 1982 a
Colombia	28 Jul 1951	10 Oct 1961 r	04 Mar 1980 a
Congo		15 Oct 1962 s	10 Jul 1970 a
Costa Rica		28 Mar 1978 a	28 Mar 1978 a
Côte d'Ivoire		08 Dec 1961 s	16 Feb 1970 a
Croatia		12 Oct 1992 s	12 Oct 1992 s
Cyprus		16 May 1963 s	09 Jul 1968 a
Czech Republic		01 Jan 1993 s	01 Jan 1993 s
Democratic Rep. of the Congo		19 Jul 1965 a	13 Jan 1975 a
Denmark	28 Jul 1951	04 Dec 1952 r	29 Jan 1968 a
Djibouti		09 Aug 1977 s	09 Aug 1977 s
Dominica		17 Feb 1994 a	17 Feb 1994 a
Dominican Republic		04 Jan 1978 a	04 Jan 1978 a
Ecuador		17 Aug 1955 a	06 Mar 1969 a
Egypt (Arab Republic of)		22 May 1981 a	22 May 1981 a
El Salvador		28 Apr 1983 a	28 Apr 1983 a
Equatorial Guinea		07 Feb 1986 a	07 Feb 1986 a
Estonia		10 Apr 1997 a	10 Apr 1997 a
Ethiopia		10 Nov 1969 a	10 Nov 1969 a
Fiji		12 Jun 1972 s	12 Jun 1972 s
Finland		10 Oct 1968 a	10 Oct 1968 a
France	11 Sep 1952	23 Jun 1954 r	03 Feb 1971 a
Gabon		27 Apr 1964 a	28 Aug 1973 a
Gambia		07 Sep 1966 s	29 Sep 1967 a
Georgia		09 Aug 1999 a	09 Aug 1999 a
German Federal Republic	19 Nov 1951	01 Dec 1953 r	05 Nov 1969 a
Ghana		18 Mar 1963 a	30 Oct 1968 a
Greece	10 Apr 1952	05 Apr 1960 r	07 Aug 1968 a
Guatemala		22 Sep 1983 a	22 Sep 1983 a
Guinea		28 Dec 1965 s	16 May 1968 a
Guinea-Bissau		11 Feb 1976 a	11 Feb 1976 a
Haiti		25 Sep 1984 a	25 Sep 1984 a
Holy See (Vatican)	21 May 1952	15 Mar 1956 r	08 Jun 1967 a
Honduras		23 Mar 1992 a	23 Mar 1992 a
Hungary		14 Mar 1989 a	14 Mar 1989 a
Iceland		30 Nov 1955 a	26 Apr 1968 a
Iran, Islamic Republic of		28 Jul 1976 a	28 Jul 1976 a
Ireland		29 Nov 1956 a	06 Nov 1968 a
Israel	01 Aug 1951	01 Oct 1954 r	14 Jun 1968 a
Italy	23 Jul 1952	15 Nov 1954 r	26 Jan 1972 a

Jamaica		30 Jul 1964 s	30 Oct 1980 a
Japan		03 Oct 1981 a	01 Jan 1982 a
Kazakhstan		15 Jan 1999 a	15 Jan 1999 a
Kenya		16 May 1966 a	13 Nov 1981 a
Korea (Republic of)		03 Dec 1992 a	03 Dec 1992 a
Kyrgyzstan		08 Oct 1996 a	08 Oct 1996 a
Lesotho		14 May 1981 a	14 May 1981 a
Latvia		31 Jul 1997 a	31 Jul 1997 a
Liberia		15 Oct 1964 a	27 Feb 1980 a
Liechtenstein	28 Jul 1951	08 Mar 1957 r	20 May 1968 a
Lithuania		28 Apr 1997 a	28 Apr 1997
Luxembourg	28 Jul 1951	23 Jul 1953 r	22 Apr 1971 a
The former Yugoslav Republic of Macedonia		18 Jan 1994 s	18 Jan 1994s
Madagascar		18 Dec 1967 a	
Malawi		10 Dec 1987 a	10 Dec 1987 a
Mali		02 Feb 1973 s	02 Feb 1973 a
Malta		17 Jun 1971 a	15 Sep 1971 a
Mauritania		05 May 1987 a	05 May 1987 a
Monaco		18 May 1954 a	
Morocco		07 Nov 1956 s	20 Apr 1971 a
Mozambique		16 Dec 1983 a	01 May 1989 a
Namibia		17 Feb 1995 a	
Netherlands	28 Jul 1951	03 May 1956 r	29 Nov 1968 a
New Zealand		30 Jun 1960 a	06 Aug 1973 a
Nicaragua		28 Mar 1980 a	28 Mar 1980 a
Niger		25 Aug 1961 s	02 Feb 1970 a
Nigeria		23 Oct 1967 a	02 May 1968 a
Norway	28 Jul 1951	23 Mar 1953 r	28 Nov 1967 a
Panama		02 Aug 1978 a	02 Aug 1978 a
Papua New Guinea		17 Jul 1986 a	17 Jul 1986 a
Paraguay		01 Apr 1970 a	01 Apr 1970 a
Peru		21 Dec 1964 a	15 Sep 1983 a
Philippines		22 Jul 1981 a	22 Jul 1981 a
Poland		27 Sep 1991 a	27 Sep 1991 a
Portugal		22 Dec 1960 a	13 Jul 1976 a
Romania		07 Aug 1991 a	07 Aug 1991 a
Russian Federation		02 Feb 1993 a	02 Feb 1993 a
Rwanda		03 Jan 1980 a	03 Jan 1980 a
Saint Vincent and the Grenadines		03 Nov 1993 a	
Samoa		21 Sep 1988 a	29 Nov 1994 a
Sao Tome and Principe		01 Feb 1978 a	01 Feb 1978 a
Senegal		02 May 1963 s	03 Oct 1967 a
Seychelles		23 Apr 1980 a	23 Apr 1980 a
Sierra Leone		22 May 1981 a	22 May 1981 a
Slovakia		04 Feb 1993 s	04 Feb 1993 s
Slovenia		06 Jul 1992 s	06 Jul 1992 s

Solomon Islands		28 Feb 1995 a	12 Apr 1995 a
Somalia		10 Oct 1978 a	10 Oct 1978 a
South Africa		12 Jan 1996a	12 Jan 1996 a
Spain		14 Aug 1978 a	14 Aug 1978 a
Sudan		22 Feb 1974 a	23 May 1974 a
Suriname		29 Nov 1978 s	29 Nov 1978 s
Swaziland			28 Jan 1969 a
Sweden	28 Jul 1951	26 Oct 1954 r	04 Oct 1967 a
Switzerland	28 Jul 1951	21 Jan 1955 r	20 May 1968 a
Tajikistan		07 Dec 1993 a	07 Dec 1993 a
Tanzania		12 May 1964 a	04 Sep 1968 a
Togo		27 Feb 1962 s	01 Dec 1969 a
Tunisia		24 Oct 1957 s	16 Oct 1968 a
Turkey	24 Aug 1951	30 Mar 1962 r	31 Jul 1968 a
Turkmenistan		02 Mar 1998 a	02 Mar 1998
Tuvalu		07 Mar 1986 s	07 Mar 1986 s
Uganda		27 Sep 1976 a	27 Sep 1976 a
United Kingdom	28 Jul 1951	11 Mar 1954 r	04 Sep 1968 a
USA			01 Nov 1968 a
Uruguay		22 Sep 1970 a	22 Sep 1970 a
Venezuela			19 Sep 1986 a
Yemen		18 Jan 1980 a	18 Jan 1980 a
Yugoslavia	28 Jul 1951	15 Dec 1959 r	15 Jan 1968 a
Zambia		24 Sep 1969 s	24 Sep 1969 a
Zimbabwe		25 Aug 1981 a	25 Aug 1981 a

APPENDIX G
CIC DECLARATION ON REFUGEE PROTECTION FOR WOMEN

DECLARATION ON REFUGEE PROTECTION FOR WOMEN - JUNE 1, 1994

Preamble

According to the United Nations High Commissioner for Refugees, there are twenty million refugees in the world who have been forced to flee their own country to seek protection elsewhere. It is estimated that about 80 per cent of the world's refugees are women and children.

In response to the Red Book commitment to "expand the criteria for legitimate status to include women fleeing persecution on basis of gender" and to assist in addressing the difficulties faced by refugee women, Citizenship and Immigration Canada has adopted this "Declaration on Refugee Protection for Women."

CITIZENSHIP AND IMMIGRATION CANADA
DECLARATION ON REFUGEE PROTECTION FOR WOMEN

Introduction

The principle of non-discrimination, including equality of men and women, is enshrined in the United Nations Charter and the Universal Declaration of Human Rights. By invoking these instruments in its preamble, the 1951 Convention relating to the Status of Refugees places refugee protection within the context of human rights and assures refugees the widest possible exercise of fundamental rights and freedoms without discrimination. In Canada, this principle of equality is found in Section 15 of the Charter of Rights and Freedoms. Citizenship and Immigration Canada recognizes the right of refugee women to receive international protection on an equal basis with men, particularly from persecution based on gender.

The paragraphs which follow give expression to the Department's commitments in this area.

Women's rights are human rights

Citizenship and Immigration Canada, agreeing that "women's rights are human rights", is committed to ensuring the protection of those rights for refugees both males and females in a way that recognizes the realities of women's lives and the nature of the human rights abuses women face.

This commitment is reflected in Canada's active contribution to and support of such international initiatives as the Vienna Declaration and Program of Action (UN World Conference on Human Rights), the Conclusion of the 1993 Executive Committee of the UNHCR on Refugee Protection and Sexual Violence, and the United Nations "Declaration on the Elimination of Violence Against Women" adopted in 1993 by the United Nations General Assembly (UNGA 48).

This commitment flows from the Government's recognition that, even in Canada, women may be particular targets of violence and from its commitment to protect women fleeing persecution on the basis of gender.

Women experience persecution differently from men

Citizenship and Immigration Canada is committed to an interpretation of the Convention refugee definition which includes protection from sexual violence and violations of human rights based on gender. We recognize that women may be persecuted on similar grounds as are men, but that the forms of persecution may be different; moreover, we recognize that women may be subject to persecution simply because they are women.

Barriers to state protection

Citizenship and Immigration Canada recognizes that the subordinate position of women throughout the world is an obstacle to recourse against violence, that deprivation of fundamental human rights may be entrenched in social and legal systems, and that, because of domestic responsibilities and financial dependence, women are

far less mobile than men. We also recognize that women and children in refugee camps are particularly vulnerable to abuse and exploitation.

From "gender-neutrality" to "gender-inclusiveness"

Canadians are proud of our non-discriminatory laws and policies. Citizenship and Immigration Canada recognizes, however, that in order to meet our policy objectives and our international and domestic commitments, gender-neutrality is not enough. We are committed to policies and procedures that respond affirmatively to the special needs of refugee women, both in Canada and abroad.

Refugee selection overseas

Citizenship and Immigration Canada is committed to the inclusive interpretation of the definition and the gender-sensitive approach contained in the Immigration and Refugee Board Guidelines in assessing applications for resettlement from abroad by refugee women.

Citizenship and Immigration Canada recognizes the need to overcome traditional, male-oriented views of the potential of refugees for "successful establishment" in Canada. Although many refugee women have had limited access to formal education and wage employment and are often responsible for young children, many of them demonstrate great resourcefulness, life skills, and adaptability, which are useful in coping with a new life in Canada.

Gender sensitivity in Canada

The ability to question with sensitivity, awareness of the signs of gender-related persecution, and knowledge of conditions affecting women in source countries, are required of those who deal with refugee women. Citizenship and Immigration Canada is committed to the development of training and direction for all immigration officers in Canada and abroad, for other staff, and for interpreters, to promote this sensitivity, awareness and knowledge. Citizenship and Immigration Canada is also committed to achieving an equitable gender balance in the selection of staff throughout the organization.

Citizenship and Immigration Canada recognizes that refugee claims by women may be jeopardized because they do not tell of experiences of sexual violence, they may be unwilling to speak of such experiences in front of their husbands, or they may be intimidated by the presence of male officials or interpreters.

Wherever operationally feasible, Citizenship and Immigration Canada will ensure that women making refugee claims have the option of being interviewed by female officers, with the assistance of trained female interpreters.

APPENDIX H

GUIDELINES ON REFUGEE WOMEN (IRB)

WOMEN REFUGEE CLAIMANTS FEARING GENDER-RELATED PERSECUTION PURSUANT TO SECTION 65(3)OF THE *IMMIGRATION ACT*

Immigration and Refugee Board
Ottawa, Canada
March 9, 1993

THE ISSUE

The definition of a Convention refugee in the *Immigration Act* does not include gender as an independent enumerated ground for a well-founded fear of persecution warranting the recognition of Convention refugee status. As a developing area of the law, it has been more widely recognized that gender-related persecution is a form of persecution which can and should be assessed by the Refugee Division panel hearing the claim. Where a woman claims to have a gender-related fear of persecution, the central issue is thus the need to determine the linkage between gender, the feared persecution and one or more of the definition grounds. Most gender-related refugee claims brought forward by women raise four critical issues, which these Guidelines seek to address:

First Issue

To what extent can women making a gender-related claim of fear of persecution successfully rely on any one, or combination, of the five enumerated grounds of the Convention refugee definition?

Second Issue

Under what circumstances does sexual violence, or a threat thereof, or other prejudicial treatment towards women constitute persecution as that term is jurisprudentially understood?

Third Issue

What are the key evidentiary elements which decision-makers have to look to when considering a gender-related claim?

Fourth Issue

What special problems do women face when called upon to state their claim at refugee determination hearings, particularly when they have had experiences that are difficult and often humiliating to speak about?

THE ANALYSIS

I. DETERMINING THE NATURE AND THE GROUNDS OF THE PERSECUTION

Obviously, not all claims brought forward by women are specifically gender-related. Women frequently claim fear of persecution in common with their fellow male citizens, though not necessarily of the same nature or at the same level of vulnerability, for such reasons as belonging to an ethnic or a linguistic minority, or membership in a political movement, a trade union or a religious denomination.

General Proposition

Although gender is not specifically enumerated as one of the grounds for establishing Convention refugee status, the definition of Convention refugee may properly be interpreted as providing protection to women who demonstrate a well-founded fear of gender-related persecution by reason of any one, or a combination of, the enumerated grounds.

Before determining the appropriate ground(s) applicable to the claim, decision-makers must first identify the nature of the persecution feared by the claimant.

Generally speaking, women refugee claimants may be described by four broad categories, although these categories are not mutually exclusive or exhaustive:[1]

1. Women who fear persecution on the same Convention grounds, and in similar circumstances, as men. That is, the risk factor is not their sexual status, per se, but rather their particular identity (i.e. racial, national or social) or what they believe in, or are perceived to believe in (i.e. religion or political opinion). In such claims, the substantive analysis does not vary as a function of the person's gender, although the nature of the harm feared and procedural issues at the hearing may vary as a function of the claimant's gender.

2. Women who fear persecution for reasons solely pertaining to kinship, i.e. because of the status, activities or views of their spouses, parents, and siblings, or other family members. Such cases of "persecution of kin" typically involve violence or other forms of harassment against women, who are not themselves accused of any antagonistic views or political convictions, in order to pressure them into revealing information about the whereabouts or the political activities of their family members. Women may also have political opinions imputed to them based on the activities of members of their family.

3. Women who fear persecution resulting from certain circumstances of severe discrimination on grounds of gender or acts of violence either by public authorities or at the hands of private citizens from whose actions the state is unwilling or unable to adequately protect the concerned persons. In the refugee law context, such discrimination may amount to persecution if it leads to consequences of a substantially prejudicial nature for the claimant and if it is imposed on account of any one, or combination, of the statutory grounds for persecution

4. Women who fear persecution as the consequence for failing to conform to, or for transgressing, certain gender-discriminating religious or customary laws and practices in their country of origin. Such laws and practices, by singling out women and placing them in a more vulnerable position than men, may create conditions precedent to a gender-defined social group. The religious precepts, social traditions or cultural norms which women may be accused of violating can range from choosing their own spouses instead of accepting an arranged marriage to such matters as the wearing of make-up, the visibility or length of hair, or type of clothing a woman chooses to wear.

   A. Grounds other than membership in a particular social group

   Race: There may be cases where a woman claims a fear of persecution because of her race and her gender. For example, an Asian woman in an African society can be persecuted not only for her race, but also for her gender.

   Religion: A woman who in an Islamic society, for example, chooses not to subscribe to or follow the precepts of a state religion may be at risk of persecution for reasons of religion. In the context of the Convention refugee definition, the notion of religion may encompass, among other freedoms, the freedom to hold a belief system of one's choice or not to hold a particular belief system and the freedom to practise a religion of one's choice or not to practise a prescribed religion. In certain states, the religion assigns certain roles to women; if a woman does not fulfil her assigned role and is punished for that, she may have a well-founded fear of persecution for reasons of religion. A woman may also be perceived as expressing a political view (and have a political opinion imputed to her) because of her attitude and/or behaviour towards religion.

   Nationality: A gender-related claim of fear of persecution may be linked to reasons of nationality in situations where a national law causes a woman to lose her nationality (i.e. citizenship) because of marriage to a foreign national. What would constitute good grounds for fearing persecution is not the fact of losing her nationality as such (notwithstanding that such laws are discriminatory to the extent that they do not apply to men married to foreign nationals), but the consequences she may suffer as a result.[2]

   Political Opinion: A woman who opposes institutionalized discrimination of women, or expresses views of independence from male social/cultural dominance in her society, may be found to fear persecution for reasons of imputed political opinion (i.e. she is perceived by the established political/social structure as expressing politically antagonistic views). Two considerations are of paramount importance when interpreting the notion of "political opinion":

(1) In a society where women are "assigned" a subordinate status and the authority exercised by men over women results in a general oppression of women, their political protest and activism do not always manifest themselves in the same way as those of men.[3]

(2) The political nature of oppression of women in the context of religious laws and ritualization should be recognized. Where tenets of the governing religion in a given country require certain kinds of behaviour exclusively from women, contrary behaviour may be perceived by the authorities as evidence of an unacceptable political opinion that threatens the basic structure from which their political power flows.

B. Membership in a particular social group

In considering the application of the "membership in a particular social group" category, reference should be made to the IRB Preferred Position Paper, Membership in a Particular Social Group as a Basis for a Well-Founded Fear of Persecution.[4]

Family as a particular social group:

> There is jurisprudential authority for recognizing claims grounded in familial affiliation (i.e. where kinship is the risk factor) as coming within the ambit of the "membership in a particular social group" category.

See, for example, Al-Busaidy, Talal Ali Said v. M.E.I.,[5]

> . ..the [Immigration and Refugee] Board has committed reviewable error in not giving due effect to the applicant's uncontradicted evidence with respect to his membership in a particular social group, namely, his own immediate family.

Gender-defined particular social group:

> There is increasing international support for the application of the particular social group ground to the claims of women who allege a fear of persecution solely by reason of their gender, See Conclusion No. 39(XXXVI) Refugee Women and International Protection, 1985, where the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) recognized that States, in the exercise of their sovereignty, are free to adopt the interpretation that women asylum-seekers who face harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live may be considered as a "particular social group" within the meaning of Article 1 A(2) of the 1951 United Nations Refugee Convention.[6]

Application of the statutory ground:

> In applying the "membership in a particular social group" category as a ground for gender-related fear of persecution, two considerations are necessary:
>
> (1) Most of the gender-specific claims involving fear of persecution for transgressing religious or social norms may be determined on grounds of religion or political opinion. Such women may be seen by the governing authorities or private citizens as having made a religious or political statement in transgressing those norms of their society, even though UNHCR Conclusion No. 39 above, contemplates the use of particular social group as an appropriate ground.
>
> (2) For a woman to establish a well-founded fear of persecution by reason of her membership in a gender-defined particular social group:[7] the fact that the particular social group consists of large numbers of the female population in the country concerned is irrelevant - race, religion, nationality and political opinion are also characteristics that are shared by large numbers of people. What is relevant is evidence that the particular social group suffers or fears to suffer severe discrimination or harsh and inhuman treatment that is distinguished from the situation of the general population, or from other women.

A sub-group of women can be identified by reference to the fact of their exposure or vulnerability for physical, cultural or other reasons, to violence, including domestic violence, in an environment that denies them protection. These women face violence amounting to persecution,

because of their particular vulnerability as women in their societies and because they are so unprotected.[8]

Refugee status being an individual remedy, whether or not it is based on social group membership, the woman will need to show that she has a genuine fear of harm, that her gender is the reason for the feared harm, that the harm is sufficiently serious to amount to persecution, that there is a reasonable possibility for the feared persecution to occur if she is to return to her country of origin and she has no reasonable expectation of adequate national protection.

II. ASSESSING THE FEARED HARM

Claims involving gender-related fear of persecution often fall quite comfortably within one of the five grounds of the Convention refugee definition. The difficulty sometimes lies in establishing whether the various forms of prejudicial treatment or sanctions imposed on women making such claims come within the scope of the concept of "persecution".

Considerations

The circumstances, which give rise to women's fear of persecution, are often unique to women.[9] The existing bank of jurisprudence on the meaning of persecution is based on, for the most part, the experiences of male claimants. Aside from a few cases of rape, the definition has not been widely applied to female-specific experiences, such as infanticide, genital mutilation, bride-burning, forced marriage, domestic violence, forced abortion, or compulsory sterilization.[10]

The fact that violence, including sexual and domestic violence, against women is universal is irrelevant when determining whether rape, and other gender-specific crimes constitute forms of persecution. The real issues are whether the violence--experienced or feared--is a serious violation of a fundamental human right for a Convention ground[11] and in what circumstances can the risk of that violence be said to result from a failure of state protection.[12]

The social, cultural, traditional and religious norms and the laws affecting women in the claimant's country of origin ought to be assessed by reference to human rights instruments which provide a framework of international standards for recognizing the protection needs of women. What constitutes permissible conduct by a state towards women may be determined, therefore, by reference to international instruments such as:

Universal Declaration of Human Rights,

International Covenant on Civil and Political Rights,

International Covenant on Economic, Social and Cultural Rights,

Convention on the Elimination of All Forms of Discrimination Against Women[13],

Convention on the Political Rights of Women,

Convention on the Nationality of Married Women.

A woman's claim to Convention refugee status cannot be based solely on the fact that she is subject to a national policy or law to which she objects. The claimant will need to establish that:

(a) the policy or law is inherently persecutory; or

(b) the policy or law is used as a means of persecution for one of the enumerated reasons; or

(c) the policy or law, although having legitimate goals, is administered through persecutory means; or

(d) the penalty for non-compliance with the policy or law is disproportionately severe.

III. EVIDENTIARY MATTERS

In assessing a woman's claim of gender-related fear of persecution, the evidence must show that what the claimant genuinely fears is persecution for a Convention reason as distinguished from random violence or random criminal activity perpetrated against her as an individual. The central factor in such an assessment is, of course, the claimant's particular circumstances in relation to both the general human rights record of her country of origin and the experiences of other similarly situated women. Eval-

uation of the claimant's whole evidence as to weight and credibility ought to be conducted in light of the following considerations, among others:

A gender-related claim cannot be rejected simply because the claimant comes from a country where women face generalized oppression and violence and the claimant's fear of persecution is not identifiable to her on the basis of an individualized set of facts. This so-called "particularized evidence rule" was rejected by the Federal Court of Appeal in Salibian v. M.E.I.,[14] and other decisions.

Where a gender-related claim involves threats of or actual sexual violence at the hands of authorities (or private citizens not susceptible to state control), the claimant may have difficulties in substantiating her claim with any "statistical data" on the incidence of sexual violence in her country of origin.

Decision-makers should consider evidence indicating a failure of state protection in that governing institutions and/or their agents in the claimant's country of origin may have condoned the instances of sexual violence if they had been aware of them or did nothing to prevent them.

IV. SPECIAL PROBLEMS AT DETERMINATION HEARINGS

Women refugee claimants face special problems in demonstrating that their claims are credible and trustworthy. Some of the difficulties may arise because of cross-cultural misunderstandings.[15] For example:

Women from societies where the preservation of one's virginity or marital dignity is the cultural norm may be reluctant to disclose their sad experiences of sexual violence in order to keep their "shame" to themselves alone and not dishonour their family or community.

Women from certain cultures where men do not share the details of their political, military or even social activities with their spouses, daughters or mothers may find themselves in a difficult situation when questioned about the experiences of their male relatives.

Women refugee claimants who have suffered sexual violence, may exhibit a pattern of symptoms referred to as Rape Trauma Syndrome [16] and may require extremely sensitive handling. Similarly, women who have suffered domestic violence may also be reluctant to testify.[17] In some cases it will be appropriate to consider whether claimants should be allowed to have the option of providing their testimony outside the hearing room by affidavit or by videotape, or in front of members and refugee hearing officers specifically trained in dealing with violence against women. Members should be familiar with the UNHCR Executive Committee Guidelines on the Protection of Refugee Women.[18]

FRAMEWORK OF ANALYSIS

1. Assess the particular circumstances which have given rise to the claimant's fear of persecution.

   "Is the form of harm feared by the claimant one that is directed at or experienced predominantly by women:

   (i) because of reasons pertaining to kinship?

   (ii) as a result of severe discrimination against women?

   (iii) on grounds of religious precepts, social mores, legal or cultural norms?

   (iv) because of their exposure or vulnerability for physical, cultural or other reasons, to violence, including domestic violence, in an environment that denies them protection."

2. Assess the general conditions in the claimant's country of origin.

   (a) Is the social and political position of women in that country such that it engenders the degree of discrimination likely to amount to persecution?

   (b) Are there oppressive laws and regulations imposed specifically upon women or certain women? How severe are the penalties for non-compliance?

   (c) Do the state authorities inflict, condone or tolerate violence, including sexual or domestic violence? Do non-state groups or individuals use sexual violence against women as a means of punishing or reinforcing their dominance over other groups?

3. Determine the seriousness of the treatment, which the claimant fears.

   (a) For the treatment to likely amount to persecution, it must be a serious form of harm, which detracts from women's human rights and fundamental freedoms.

   (b) In passing judgment on what kinds of treatment are considered persecution, an objective standard is provided by international human rights instruments that declare the lowest common denominator of protected interests.

4. Ascertain whether the claimant's fear of persecution is for any one, or a combination, of the grounds enumerated in the Convention refugee definition.

5. Is adequate state protection available to the claimant?

6. Determine whether, under all the circumstances including the possibility of an internal flight alternative, the claimant's fear of persecution is well-founded.

ENDNOTES

**Please note that all of the sources referred to in the endnotes can be found in the IRB Documentation Centres.*

1. *See generally M. Meyer, "Oppression of Women and Refugee Status", in Proceedings of the International Seminar on Refugee Women (Amsterdam: Dutch Refugee Council, 1985) at pp. 30-33, and A.B.Johnsson, "The International Protection of Women Refugees - A Summary of Principal Problems and Issues" (1989)1 International Journal of Refugee Law 221, at pp. 223-224, for a more detailed discussion of the different categories of women refugee claimants. Similar categories have been used in the Amnesty International report, Women in the Front Line: Human Rights Violations Against Women (New York: Amnesty International Publications, 1991) at pp. 1-3, in enumerating human rights violations against women.*
2. *A separate issue to be determined is whether the woman concerned has acquired her spouse's nationality by reason of which she may be able to avail herself of the protection of that country.*
3. *See F. Stairs ∧ L. Pope, "No Place Like Home: Assaulted Migrant Women's Claims to Refugee Status" (1990) 6 Journal of Law and Social Policy 148, at p. 163, where the authors assert that, "Where an ostensibly non-political act such as choice of dress is seen to in fact be political in nature it may provide the basis for a claim to refugee status." J. Greatbatch, in "The Gender Difference: Feminist Critiques of Refugee Discourse" (1989) 1 International Journal of Refugee Law 518, gives examples of how the refusal by Iranian women to conform to the dress code can be viewed as opposition to the Iranian government, thereby constituting a political act. The author also discusses the development of Chilean communal kitchens and co-operative nurseries and the search for missing relatives as examples of how Chilean women demonstrated their resistance to the Pinochet regime.*
   See also, Shahabaldin, Modjgan v. M.E.I. (IAB V85-6161),MacLeod, Mawani, Singh, March 2, 1987, where the former Immigration Appeal Board found the claimant to be a Convention refugee on the basis of her political opinion, because she opposed the Iranian laws governing dress. In CRDD T90-01845, Jackson, Wright (dissenting in part), December 21,1990, the Refugee Division was of the view that the claimant's opposition to the government's enforcement of the dress laws, "could possibly result in her being persecuted because of political opinion should she be returned to Iran." The panel noted that Iranian women are subject to "extreme discrimination".
4. *(Ottawa: Immigration and Refugee Board, March 1992)*
5. *(F.C.A., no. A-46-91), Heald, Hugessen, Stone, January 17, 1992, at 3. The former Immigration Appeal Board also considered the family as constituting a "particular social group" in Astudillo v. M.E.I.(1979), 31 N.R. 121 (F.C.A.), Barra-Velasquez, Marie Mabel De La v. M.E.I. (IAB 80-6330), Hlady, Weselak, Howard, April 29, 1981, and in Zarketa, Ignacio v. M.E.I. (IAB M81-9776), D. Davey, Suppa, Tisshaw, February 6, 1985.*
   Several Refugee Division decisions have also found women to be members of a particular social group, the family. See, for example, CRDD M89-02465, Hebert, Champoux-Ohrt (Dissident), January 4, 1990, and CRDD T89-03943, Kapasi, Jew, July 25, 1990, where a political opinion was imputed to the Somali claimant because of the actions of her brothers. See also CRDD M89-00057, Wills, Gauthier, February 16, 1989, where the Iranian claimant was found to be a member of the social group, "a pro-Shah family", and CRDD M89-00971, Wolfe, Hendricks, June 13, 1989, where the Refugee Division found the Peruvian claimant to be a member of a particular social group, her family. In CRDD M89-01098, Van der Buhs, Lamarche, June 14, 1989, the Sri Lankan claimant was also found to be a refugee because she is a young Tamil in a Tamil family.
   In CRDD T89-02313, T89-02314, T89-02315, Teitelbaum (dissenting), Sri-Skanda-Rajah, October 17, 1990, the Refugee Division found that the Guatemalan claimant was found to be a member of the social group, "targeted family". The Refugee Division, in CRDD C90-00299, C90-00300,Lo, Pawa, December 18, 1990, also found a Salvadoran claimant to belong to the particular social group, her husband's family.
6. *In July 1991, the UNHCR Executive Committee released Guidelines on the Protection of Refugee Women, EC/SCP/67 (July 22, 1991). These guidelines stress that women,...fearing persecution or severe discrimination on the basis of their gender should be considered a member of a social group for the purposes of determining refugee status. Others may be seen as having made a religious or political statement in transgressing the social norms of their society. In an Information Note submitted by the High Commissioner with the release of the above Guidelines, it was noted that*

"ensuring the protection of refugee women requires compliance not only with the 1951 Convention and its 1967 Protocol, but also with other relevant international instruments." (at p. 1)

During its 41st session in 1990, the UNHCR Executive Committee stated that severe discrimination experienced by women and prohibited by the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) can form the basis for the granting of refugee status. The importance of documentation regarding gender-based persecution and its consequences in the countries of origin of refugee women was discussed. See in this regard, the UNHCR Executive Committee, Note on Refugee Women and International Protection, EC/SCP/59 (August 28, 1990) at p. 5. The UNHCR has noted repeatedly that refugee women have special needs in the area of protection. See, for example, the discussion at the 41st session in the Note on Refugee Women and International Protection, ibid. at pp. 2-4. See also the United Nations General Assembly, Executive Committee of the High Commissioner's Programme, Report on Refugee Women, A/AC.96/727 (July 19, 1989) at p. 2.

It is interesting to observe that the European Parliament, as early as 1984, had passed a resolution similar to the 1985 UNHCR Resolution. The European Parliament called upon member states "to apply the UN treaty of 1951, as well as the 1967 Protocol regarding the status of refugees, in accordance with this interpretation." For a discussion of the resolution of the European Parliament, see the Proceedings of the International Seminar on Refugee Women (Amsterdam: Dutch Refugee Council, 1985. at p. 33. In 1984, the Dutch Refugee Council issued the following policy directive:

It is the opinion of the Dutch Refugee Council that persecution for reasons of membership of a particular social group, may also be taken to include persecution because of social position on the basis of sex. This may be especially true in situations where discrimination against women in society, contrary to the rulings of international law, has been institutionalized and where women who oppose this discrimination, or distance themselves from it, are faced with drastic sanctions, either from the authorities themselves, or from their social environment, where the authorities are unwilling or unable to offer protection.

7. *Although the former Immigration Appeal Board decided few claims dealing specifically with gender-related persecution, there is one decision that merits discussion. In Incirciyan, Zeyiye v. M.E.I. (IAB M87-1541X, M87-1248), P. Davey, Cardinal, Ang', August 10, 1987, an Armenian claimant and her daughter who had been living in Turkey, were found to be refugees on the basis of membership in a particular social group, "made up of single women living in a Moslem country without the protection of a male relative (father, brother, husband, son)." Since the claimant had requested and had been refused the protection of the Turkish authorities on several occasions, the Board concluded that there was a lack of adequate state protection.*

   On several occasions, the Refugee Division has found women refugee claimants to have a well-founded fear of persecution by reason of their membership in a particular social group. In CRDD T89-06969, T89-06970, T89-06971, Nicholson, Bajwa, July 17, 1990, the Refugee Division found that the claimant and her two daughters had a well-founded fear of persecution on the basis of their membership in a particular social group, "consisting of women and girls who do not conform to Islamic fundamentalist norms." In CRDD U91-04008, Goldman, Bajwa, December 24,1991, the Somali claimant was found to be a refugee on the basis of her membership in a particular social group, "young women without male protection." The Refugee Division, in CRDD T89-02248, Maraj, E.R. Smith, April 3,1990, found the claimant to be a member of the particular social group composed of women who belong to a "women's organization objecting to the treatment of women in Iran."

8. *The Federal Court of Appeal in Mayers, Marcel v. M.E.I.(F.C.A., A-544-91), Isaac, Heald, Mahoney, November 5, 1992, raised the question, in obiter, of whether or not "Trinidadian women subject to wife abuse" could constitute a particular social group.*

9. *Several commentators argue that the Convention refugee definition, ignores the persecution that girls and women endure, even die under, for stepping out of the closed circle of social norms; choosing a husband in place of accepting an arranged marriage; undergoing an abortion where it is illegal; becoming politically active in the women's movement. Women are also abandoned or persecuted for being rape victims, bearing illegitimate children or marrying men of different races. See L. Bonnerjea, Shaming the World: The Needs of Women Refugees (London: Change, 1985) at p. 6.*

   See also Greatbatch, supra, footnote 3, at p. 218, and Stairs and Pope, supra, footnote 3, at pp. 163-164.The Refugee Division, in CRDD U92-06668, E.R. Smith, Daya, February 19,1993, found that the claimant had a well-founded fear of persecution by reason of her membership in the particular social groups, "unprotected Zimbabwean women or girls subject to wife abuse" and "Zimbabwean women or girls forced to marry according to customary laws." Contrast this position with CRDD T92-03227, Davis, Woloschuk, November 18, 1992, where the panel concluded that the Ecuadoran claimant, a victim of domestic violence, failed to establish that her fear of persecution was connected to any of the five grounds in the definition of Convention refugee. In the panel's view, "a claim based solely on the sex of a claimant does not fall within the parameters of the definition." The panel rejected the argument that "battered women who do not receive state protection" constitute a particular social group. In their view, it was inappropriate to define the particular social group by the persecution rather than examining whether or not the persecution is for any of the grounds in the definition of Convention refugee.

10. *In L. Heise, "Crimes of Gender" (1989)2 Worldwatch 12, the many forms of violence against women are discussed. The author notes that, every day, thousands of women are beaten in their homes by their partners, and thousands more are raped, assaulted and sexually harassed. And, there are the less recognized forms of violence: In Nepal, female babies die from neglect because parents value sons over daughters; in Sudan, girls' genitals are mutilated to ensure virginity until marriage; and in India, young brides are murdered by their husbands when parents fail to provide enough dowry. In all these instances, women are targets of violence because of their sex. This is not random violence; the risk factor is being female.*
11. *When considering whether sexual violence or domestic violence (which may involve both mental and physical suffering) are forms of torture or cruel, inhuman and degrading treatment amounting to persecution, decision-makers should examine the meaning of "torture" under the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment. This Convention which, like the 1951 Refugee Convention, incorporates the principle of non-refoulement, defines "torture" as: ..any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from [her] or a third person information or a confession, punishing [her] for an act [she] or a third person has committed or is suspected of having committed, or intimidating or coercing [her] or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (Article 1)*
12. *In their influential study, Sexual Violence Against Refugee Women (The Hague, Ministry for Social Affairs, 1984) at pp. 6 and 7, C.E.J. de Neef and S.J. de Ruiter document the manner in which sexual violence "may have played a role in the flight from the country of origin in any of a variety of ways:*
    a. *It may have been part of the way in which the persecution based on her political conviction was expressed; (When a woman has been imprisoned in the country of origin she may have suffered sexual violence. Both for men and women in a number of countries sexual violence is an integral part of the methods of torture.)*
    b. *It may be that a woman by not conforming to the cultural traditions in the country of origin which prescribe a certain behaviour for women is fearful to be subjected to violence. (An example of this type of violence is decapitating or stoning women who have committed adultery in some Islamic cultures.)*
    c. *It may be that through the threat of, or through actual sexual violence against women, conflicts between different political or religious groups are decided. (An example is the ravishment of brides of Christians by Muslims in Turkey. Sexual violence against women here can be a means to hurt an entire group and to reinforce the superiority of the one group over the other.)*
    d. *It may be that women who have fled because of conditions of war or of a reign of terror...are a victim of sexual violence because they are exceptionally vulnerable when they are deprived of the men's traditional protection and have lost their status of wife."*

    The Dutch Refugee Council publication, Sexual Violence: You Have Hardly Any Future Left (Amsterdam: Dutch Refugee Council, 1987), contains a excellent discussion of the meaning and forms of sexual violence. Excerpts from this publication form part of the documentation for the workshop, "Socio-cultural Context to Refugee Claims made by Women - Case Studies: Iran, Somalia and Latin America, "organized by the Toronto I CRDD Working Group on Women Refugee Claimants, Toronto, June 21, 1990. The documentation is available in the Board's regional Documentation Centres.
13. *During its 41st session in 1990, the UNHCR Executive Committee stated that severe discrimination experienced by women and prohibited by Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) can form the basis for the granting of refugee status. The importance of documentation regarding gender-based persecution and its consequences in the countries of origin of refugee women was discussed. See in this regard, the UNHCR Executive Committee, Note on Refugee Women and International Protection, EC/SCP/59(August 28,1990) at p. 5.*
14. *[1990] 3 F.C. 250.*
15. *The UNHCR Executive Committee notes that decision-makers should refrain from asking women refugee claimants for details of sexual abuse. They note that, "the important thing in establishing a well-founded fear of persecution is to establish that some form of it has occurred." Guidelines on the Protection of Refugee Women, supra, footnote 6, at p. 27.*
16. *The UNHCR Executive Committee Guidelines on Refugee Women, ibid., at p. 27, discuss the symptoms of Rape Trauma Syndrome as including "persistent fear, a loss of self-confidence and self-esteem, difficulty in concentration, an attitude of self-blame, a pervasive feeling of loss of control, and memory loss or distortion."*
17. *F. Stairs ∧ L. Pope, supra, footnote 3, at p. 202, stress that decision-makers should be, ..sensitive to the fact that women whose children are attached to their claim may also be reticent to describe the details of their persecution in front of their children. Further, if the claimant's culture dictates that she should suffer battering silently, the use of an interpreter from her community may also intimidate her.*
18. *It should be noted that Amnesty International, in Women in the Front Line: Human Rights Violations Against Women, supra, footnote 1, at p. 54, recommends that: In procedures for the determination of refugee status governments should provide interviewers trained to recognize the specific protection needs of women refugee and asylum-seekers*

APPENDIX I
REFUSAL LETTER - ELIGIBILITY

This refers to your application for permanent residence in Canada.

I have now completed the assessment of your application. I regret to inform you that you do not meet the requirements for immigration to Canada as a Convention refugee.

The definition of "Convention refugee" is defined in subsection 2(1) of the *Immigration Act* and means any person who [quote (a) and/or (b) depending on reason for refusal.]

(a) by reason of well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(I) is outside the country of that person's nationality and is unable or, by reason of that fear, is unwilling to avail himself of the protection of that country, or

(ii) not having a country of nationality is outside the country of the person's former habitual residence and is unable or, by reason of that fear, is unwilling to return to that country.

(b) has not ceased to be a Convention refugee by virtue of subsection (2).

(2) A person ceases to be a Convention refugee when

(a) the person voluntarily re-avails himself of the protection of the country of the person's nationality;

(b) the person voluntarily re-acquires his nationality;

(c) the person acquires a new nationality and enjoys the protection of the country of that new nationality;

(d) the person voluntarily re-establishes himself in the country that the person left, or outside of which the person remained, by reason of fear of persecution; or

(e) the reasons for the person's fear of persecution in the country that the person left, or outside of which the person remained, cease to exist.

You state that you are (unable or unwilling) to return to (name country of nationality or former habitual residence) by reason of a fear of persecution for reasons of your (race, religion, nationality, membership in a particular social group or political opinion).

You claim that (explain the basis of the claim).

I find that this does not satisfy the definition of "Convention refugee" because (give reasons for decision, reasons should pertain to:

(1) Persecution; or

(2) Well-founded fear; or

(3) Political opinion; or

(4) Race; or

(5) Religious group; or

(6) Social group; or

(7) Nationality; or

(8) State protection; or

(9) Internal flight alternative; or

(10) Exclusion; or

(11) Cessation; or

(12) Change of circumstances.)

Your application was also assessed to determine whether you qualify in another immigration category. I have determined that you do not qualify in the immigration category of (list other categories) *because* (give explicit reasons for refusal). *Consequently, I must refuse your application for permanent residence in Canada.*

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

REFUSAL LETTER: SAMPLE

R2(1) Convention refugee seeking resettlement or HDCR section 1 members of the Country of asylum class or members of the Source country class (does not satisfy definition)

This refers to your application for permanent residence in Canada.

I have now completed the assessment of your application. I regret to inform you that you do not meet the requirements for immigration to Canada.

"Convention refugee seeking resettlement" is defined in subsection 2(1) of the *Immigration Regulations*, 1978 and means a Convention refugee who has not become permanently resettled and is unlikely to be voluntarily repatriated or locally resettled.

I find that you do not satisfy the definition of "Convention refugee seeking resettlement" because

(1) You have become permanently resettled in (name of country); or

(2) You are likely to be voluntarily repatriated to (name of country); or

(3) You are likely to be locally settled; or

(4) You have received an offer of permanent resettlement by (name of country); or

(5) You have applied for asylum (name other country) and (name other country) is a signatory to the 1951 Convention and has an obligation towards you as an asylum seeker.

Your application was also assessed to determine whether you qualify in another immigration category. I have determined that you do not qualify in the immigration category of (list other categories) because (give explicit reasons for refusal). Consequently, I must refuse your application for permanent residence in Canada.

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

You may use a similar format for the HDCR definitions regarding Country of Asylum and Source Country Classes.

APPENDIX J
UNHCR HANDBOOK CHECKLIST

1 OUTSIDE THE COUNTRY OF NATIONALITY/FORMER HABITUAL RESIDENCE

- nationality/multiple nationality/statelessness(HB* para. 87-93, 101-105, 106-107)
- sur place (HB para. 94-96)

2 WELL-FOUNDED FEAR

(a) subjective element

- relates to existence of fear in mind of claimant(HB para. 40)
- need to have complete picture of the claimant(HB para. 41)
- definition is forward-looking(HB para. 45)

(b) objective element

- requires valid basis for fear(HB para. 42)
- test: "good grounds" to fear persecution, "reasonable" or "serious possibility" (likelihood of persecution)(HB para. 42)
- information on country conditions(HB para. 42)
- state protection(HB para. 100, 106)
- internal flight alternative(HB para. 91)
- change of circumstances, compelling reasons

3. PERSECUTION

- no definition of persecution in Act or Convention
- involves grave violation of basic human rights (serious harm and/or persistent, repetitious systematic infliction of lesser harm)(HB para. 51-52)
- reference can be made to basic human rights standards set out in international human rights instruments (continuum/levels)
- discrimination versus persecution; cumulative discrimination(HB para. 53-55)
- prosecution versus persecution(HB para. 56-60)
- illegal departure(HB para. 61)
- refusal to perform military service(HB para. 167-174)
- gender-related persecution
- agents of persecution(HB para. 65)
- civil war not an obstacle, provided all elements of definition present(HB para 164, 166)

4. GROUNDS

- claimant does not have to identify grounds (HB para. 66-67)
- can be real or imputed(HB para. 80)

(a) race(HB para. 68-70)

(b) religion(HB para. 71-73) (c) nationality(HB para. 74-76)

(d) membership in a particular social group(HB para. 77-79)

(e) political opinion

APPENDIX K

REFUSAL LETTER - ESTABLISHMENT POTENTIAL

***R7*(1) Convention refugee seeking resettlement or HDCR 4(1) for members of the Country of Asylum or Source country classes (not eligible under resettlement criteria)**

This refers to your application for permanent residence in Canada as a Convention refugee seeking resettlement.

I have now completed the assessment of your application. I regret to inform you that you do not meet the requirements for immigration to Canada.

If A19(2)(d) and R7 add: Similar formatting is required for HDCR 4(1) refusals coupled with A19(2)(d)

However, after carefully and sympathetically assessing all factors relative to your application, in accordance with paragraph 19(2)(d) of the *Immigration Act* and section 7 of the *Immigration Regulations*, 1978, I have determined that you (and your dependants) would not be able to become successfully established in Canada because,

(1) you do not meet the requirements of the *Immigration Act* and *Immigration Regulations*, 1978 (and then add appropriate paragraphs from those that follow this one); or

(2) if outside Quebec - In my opinion, you do not have sufficient education and/or work experience and/or demonstrated motivation, adaptability, resourcefulness and initiative and/or any knowledge of the English and French languages to enable you to successfully establish in Canada.

(3) if to Quebec - in the opinion of the Ministère des relations avec les citoyens et de l'Immigration of the Province of Quebec based on regulations made under An Act respecting the Ministère des relations avec les citoyens et de l'Immigration you would not be able to become successfully established in the Province of Quebec).

If A19(1)(a)(i) add:

However, you (or dependant's name) come(s) within the inadmissible class of persons described in subparagraph 19(1)(a)(i) of the *Immigration Act* because (you or dependant's name) (are/is) suffering from (insert the name of the disease) as a result of the nature, severity or probably duration of which, in the opinion of a medical officer concurred in by another medical officer (you/he/she) (put in narrative from Medical Notification) and therefore (you/he/she) (are/is) likely to be a danger to public health or to safety.

If it is the dependant that is inadmissible add:

Since one of your dependants comes within the inadmissible class of persons described in subparagraph 19(1)(a)(i) of the *Immigration Act* pursuant to subsection 9(4) and paragraph 19(2)(d) of the *Immigration Act*, I am unable to issue an immigrant visa to you. Therefore, your application has been refused.

I have also considered possible humanitarian and compassionate factors, but have determined that there are insufficient grounds to warrant special consideration.

If A19(1)(a)(ii):

However, you or your dependant (state dependant's name)) come(s) within the inadmissible class of persons described in subparagraph 19(1)(a)(ii) of the *Immigration Act* because (you or dependant's name) (are/is) suffering from (insert the name of the disease) as a result of the nature, severity or probable duration of which, in the opinion of a medical officer concurred in by another medical officer, (you/he/she) (put in narrative from Medical Notification) and therefore (your/his/her) admission would cause or might be expected to cause excessive demands on health or social services.

If it is the dependant that is inadmissible add:

Since one of your dependants comes within the inadmissible class of persons described in subparagraph 19(1)(a)(ii) of the *Immigration Act*, I am unable to issue an immigrant visa to you. Therefore, your application has been refused.

I have also considered possible humanitarian and compassionate factors but have determined that there are insufficient grounds to warrant special consideration.

If A19(1)(c.1)(i) add:

However, (you or dependant's name) come(s) within the inadmissible class of persons described in subparagraph 19(1) (c.1)(i) of the *Immigration Act* because (you or dependant's name) (have/has) been convicted of an offence, (specify offence) in (name of country) that, if committed in Canada, would constitute an offence that may be punishable under (specify the Canadian statute) by a maximum term of imprisonment of ten years or more.

Subparagraph 19(1)(c.1)(i) of the *Immigration Act* exempts persons from this inadmissible class if they have satisfied the Governor in Council that they have rehabilitated themselves and that at least five years have elapsed since the expiration of the sentence imposed for the offence and/or there is no evidence that the Governor in Council is satisfied that (you or dependant's name) (have or has) rehabilitated (your/him/herself).

If it is the dependant that is inadmissible add:

Subsection 7(3) of the *Immigration Regulations*, 1978 permits a visa officer to issue an immigrant visa to an applicant and (his/her) accompanying dependants if (he/she) and (his/her) dependants, whether accompanying dependants or not, are not members of any inadmissible class and otherwise meet the requirements of the *Immigration Act* and the *Immigration Regulations*, 1978. Since your dependant, (insert name of dependant), comes within the inadmissible class of persons described in subparagraph 19(1)(c.1)(i), I cannot issue an immigrant visa to you and your dependants.

If A19(1)(c.1)(ii) add:

However, (you or dependant's name) come(s) within the inadmissible class of persons described in subparagraph 19(1)(c.1)(ii) of the *Immigration Act* because I have reasonable grounds to believe based on (describe grounds) that (you or dependant's name) (have/has) committed (specify the act or omission) in (specify name of country where the act or omission occurred), and that, if committed in Canada, would constitute an offence (specify the offence) that may be punishable under (specify the Canadian statute) by a maximum term of imprisonment of ten years or more.

Subparagraph 19(1)(c.1)(ii) of the *Immigration Act* exempts persons from this inadmissible class if they have satisfied the Governor in Council that they have rehabilitated themselves and that at least five years have elapsed since the commission of the act or omission. In your case, (you or dependant's name) remain a member of this inadmissible class, because (five years have not elapsed since the commission of the act or omission and/or there is no evidence that the Governor in Council is satisfied that (you or dependant's name) (are/is) rehabilitated.

If it is the dependant that is inadmissible add:

Subparagraph 7(3) of the *Immigration Regulations*, 1978 permits a visa officer to issue an immigrant visa to an applicant and (his/her) accompanying dependants if (he/she) and (his/her) dependants, whether accompanying dependants or not, are not members of any inadmissible class and otherwise meet the requirements of the *Immigration Act* and the *Immigration Regulations*, 1978. Since your dependant, (insert name of dependant), comes within the inadmissible class of persons described in subparagraph 19(1)(c.1)(ii), I cannot issue and immigrant visa to you and your dependants.

A19(1)(b) Refusals

It is the opinion of Legal Services and the Refugees Branch that it would be difficult to sustain a refusal on the basis of paragraph 19(1)(b) where CIC has approved a sponsorship undertaking for a Convention refugee seeking resettlement (CR) or as members of the Humanitarian Designated Classes (RA, RS).

In cases where CIC has approved a sponsorship undertaking for a CR, RA, RS, either Private or Government Assisted, yet the visa officer has concerns about the person's ability to support him or herself and any accompanying dependants after the period specified in the undertaking of support has expired, then a possible ground of refusal might include 19(2)(d) for paragraph 7(1)(c) of the *Immigration Regulations*, 1978 or HDCR 4(1)(c).

Paragraph 7(1)(c) and 4(1)(c) of the regulations requires that the visa officer make a determination whether the CR and the accompanying dependants will be able to become successfully established in Canada taking into consideration such factors as: ability to communicate in one of Canada's official languages; age; level of education; work experience; skills; number and ages of accompanying dependants; and personal suitability (adaptability, motivation, initiative, resourcefulness and other similar qualities). Positive consideration should be given to the very high success rate which Private Sponsors have at keeping CR, RA, and RS cases off of social assistance after the first 12 months of support.

It is possible to imagine cases involving sponsored persons where, notwithstanding the sponsor's undertaking in support, the immigrant possesses few, if any, of the necessary attributes for successful establishment in Canada as provided in the regulations. In such cases, the visa officer has the discretionary authority to refuse the sponsored application because of the refugees inability to meet paragraph 7(1)(c) or 4(1)(c) of the regulatory admission criteria.

On the other hand, a visa officer's refusal based on paragraph 19(1)(b) appears to be a nonstarter where the CR has an approved sponsorship undertaking. This is because the situation appears to be covered by the exception found in paragraph 19(1)(b). That paragraph allows for an exception where "...adequate arrangements, other than those that involve social assistance, have been made..." for the refugees care and support.

On its face, an approved sponsorship undertaking is evidence that the refugee has made adequate arrangements not requiring social assistance. However, this is not to say that, paragraph 19(1)(b) could not be used as the basis for a subsection 27(1) report in the future if, after the person(s) is landed in Canada and the period of the undertaking of support has expired, the CR is found to be depending exclusively on social assistance.

If A19(2)(a.1)(i) add:

However, (you or dependant's name) come(s) within the inadmissible class of persons described in subparagraph 19(2)(a.1)(i) of the *Immigration Act* because (you or dependant's name) (have/has) been convicted of an offence, to wit: (specify offence) in (name of country) that, if committed in Canada, would constitute and offence that may be punishable under (specify the Canadian statute) by a maximum term of imprisonment of less than ten years.

Subparagraph 19(2)(a.1)(i) of the *Immigration Act* exempts persons from this inadmissible class if they have satisfied the Minister that they have rehabilitated themselves and that at least five years have elapsed since the expiration of the sentence imposed for the offence and/or there is no evidence that the Minister is satisfied that (you or dependant's name) (have or has) rehabilitated (your/him/herself).

If it is the dependant that is inadmissible add:

Subsection 7(3) of the *Immigration Regulations*, 1978 permits a visa officer to issue an immigrant visa to an applicant and (his/her) accompanying dependants if (he/she) and (his/her) dependants, whether accompanying dependants or not, are not members of any inadmissible class and otherwise meet the requirements of the *Immigration Act* and the *Immigration Regulations*, 1978. Since your dependant, (insert name of dependant), comes within the inadmissible class of persons described in subparagraph 19(2)(a.1)(i), I cannot issue and immigrant visa to you and your dependants.

If A19(2)(a.1)(ii) add:

However, (you or dependant's name) come(s) within the inadmissible class of persons described in subparagraph 19(2)(a.1)(ii) of the *Immigration Act* because I have reasonable grounds to believe based on (describe grounds) that (you or dependant's name) (have/has) committed (specify the act or omission) in (specify name of country where the act or omission occurred), and that, if committed in Canada, would constitute an offence (specify the offence) that may be punishable under (specify the Canadian statute) by a maximum term of imprisonment of less than ten years.

Subparagraph 19(2)(a.1)(ii) of the *Immigration Act* exempts persons from this inadmissible class if they have satisfied the Minister that they have rehabilitated themselves and that at least five years have elapsed since the commission of the act or omission. In your case, (you or dependant's name) remain a member of this inadmissible class, because (five years have not elapsed since the commission of the

act or omission and/or there is no evidence that the Minister is satisfied that (you or dependant's name) (are or is) rehabilitated.

If it is the dependant that is inadmissible add:

Subparagraph 7(3) of the *Immigration Regulations*, 1978 permits a visa officer to issue an immigrant visa to an applicant and (his/her) accompanying dependants if (he/she) and (his/her) dependants, whether accompanying dependants or not, are not members of any inadmissible class and otherwise meet the requirements of the *Immigration Act* and the *Immigration Regulations*, 1978. Since your dependant, (insert name of dependant), comes within the inadmissible class of persons described in subparagraph 1992)(a.1)(ii), I cannot issue an immigrant visa to you and your dependants.

Therefore, you come within the inadmissible class of persons described in paragraph 19(2)(d) of the *Immigration Act* and your application has been refused.

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

APPENDIX L
SPONSORSHIP AGREEMENT HOLDERS

February 1, 1999

1 Roman Catholic Episcopal Corporation of Charlottetown
2 Diocese of Antigonish
3 Roman Catholic Episcopal Corporation of Halifax
4 Roman Catholic Bishop of Saint John
5 Roman Catholic Episcopal Corporation of the Diocese of Alexandria-Cornwall in Ontario
6 Roman Catholic Archdiocese of Ottawa
7 Roman Catholic Episcopal Corporation for the Diocese of St. Catharines in Canada
8 Roman Catholic Episcopal Corporation of the Diocese of London in Ontario
9 Roman Catholic Diocese of Hamilton
10 Roman Catholic Episcopal Corporation for the Diocese of Toronto in Canada
11 Roman Catholic Bishop of Thunder Bay
12 Roman Catholic Archiepiscopal Corporation of Winnipeg
13 Corporation Archiepiscopale Catholique Romaine de Saint-Boniface
14 Roman Catholic Archiepiscopal Corporation of Regina
15 Episcopal Corporation of Saskatoon
16 Roman Catholic Archdiocese of Edmonton
17 Roman Catholic Bishop of Calgary
18 Roman Catholic Archdiocese of Vancouver
19 Roman Catholic Bishop of Kamloops
20 Roman Catholic Diocese of Victoria
21 Anglican Diocese of Central Newfoundland
22 Incorporated Synod of the Diocese of Ottawa
23 Incorporated Synod of the Diocese of Huron
24 Incorporated Synod of the Diocese of Toronto
25 Diocese of Rupert's Land
26 Diocese of Saskatoon
27 Synod of the Diocese of Calgary
28 Synod of the Diocese of Edmonton
29 Anglican Synod of the Diocese of New Westminster
30 Synod of the Diocese of Kootenay
31 Anglican Diocese of British Columbia
32 Council of the United Baptist Convention of the Atlantic Provinces
33 Baptist Convention of Ontario and Quebec
34 Baptist Union of Western Canada
35 B'Nai Brith Canada
36 Jewish Immigrant Aid Services of Canada
37 Council of Christian Reformed Churches in Canada
38 Canadian Lutheran World Relief
39 Mennonite Central Committee Canada
40 Presbyterian Church in Canada
41 Governing Council of the Salvation Army in Canada
42 The United Church of Canada
43 Afghan Women's Counselling and Integration Community Support Organization

44 His Highness Prince Aga Khan Shia Imami Ismaili Council for Canada
45 Canadian Ukrainian Immigrant Aid Society
46 Ukrainian Canadian Congress
47 World University Service of Canada
48 World Vision Canada
49 Bahá'í Community of Canada
50 Free Methodist Church in Canada
51 Chaldean Refugee Assistance Committee Inc.
52 Western Canadian District of the Christian and Missionary Alliance
53 East Kootenay Friends of Burma
54 Manitoba-Saskatchewan Conference of the Seventh-day Adventist Church
55 Victory Christian Fellowship of Calgary N.W.
56 Citizenship Council of Manitoba
57 Welfare Committee for the Assyrian Community in Canada

Liste des signataires d'entente avec le Québec

1. Aide médicale internationale à l'enfance (AMIE)
2. Caritas-Sherbrooke
3. Corporation archiépiscopale catholique romaine de Montréal
4. Diocèse anglican de Montréal
5. Diocèse de Gatineau-Hull
6. Focus assistance humanitaire Canada
7. Services canadiens d'assistance aux immigrants juifs (JIAS)

APPENDIX M

COMMUNICATIONS BETWEEN THE SPONSORSHIP AGREEMENT HOLDER (SAH), IMMIGRATION OFFICES IN CANADA AND VISA OFFICES ABROAD

(This is the text of an appendix to the Sponsorship Agreement)

Effective communication between SAHs, Immigration offices in Canada and visa offices is essential to a renewed partnership for private sponsorships. In particular, the regular provision of processing information to sponsors can help to ensure that processing problems are resolved quickly and efficiently.

PROCEDURES

PROCESSING "BENCHMARKS": Visa offices will establish, as a matter of routine, regular communications with SAHs and inland offices. These communications will be facilitated by the use of a standard form-letter, which will be issued at several important "benchmarks" during the processing of an application. A copy of this standard letter is attached. Where applicable, general Citizenship and Immigration Canada service standards will apply to communications between visa offices and SAHs. Communication benchmarks include:

- receipt of undertaking/dispatch of application form;
- receipt of application, and the designation/non-designation of the SAH for privacy purposes (see below);
- non-receipt of the application within a mission-specific time frame;
- application accepted at interview/statutory processing initiated; or
- notification of refusal: SAHs will receive a copy of the refusal letter.

PRIVACY: Applicants will be informed that they may designate the responsible sponsor to receive personal information concerning their application by identifying the sponsor on the IMM 0008. In the absence of such designation, sponsors will not receive this information.

NAT TRANSMISSIONS: Notification of Arrival Transmissions (NAT) will continue to be routed through inland offices (including Ports of Entry) at least 10 working days prior to the anticipated arrival.

Form letter

You must use this form letter for communication with sponsoring groups.

PRIVATELY SPONSORED REFUGEES

Visa office: _____ Fax Number: _____

File number:

Name of Applicant:

Date of Birth:

Sponsor:

Address of sponsor:

Consent to release information received on:

CIC name:

CIC file number:

1 Undertaking of assistance received on
Application (IMM 0008) mailed on

2 No application received. Please advise new contact address or we will close file in 3 months.

3 Second application (IMM 0008) mailed on

4 No application received. File closed.

5 Completed application received on

Interview scheduled for _____ OR
Interview will be scheduled in next ___ months.
Processing expected to take ___ months to complete.

6 Applicant accepted at interview. Medical instructions issued. Barring complications, average time to visa issuance is___ months/weeks

7 Loan: Approved ____; Not Approved _____; Pending NHQ Approval_____

APPENDIX N
GUIDE FOR REFUGEE TRAVEL TO CANADA

INTRODUCTION

The Guide for Refugee Travel To Canada sets out parameters and procedures to assist officers, both abroad and in Canada, in the transportation of refugees (including humanitarian classes and privately-sponsored) from point of embarkation overseas to final destination in Canada. It is intended to facilitate a manageable flow of arrivals and a less stressful journey for the refugee.

1 TRAVEL ARRANGEMENTS

1.1 Choosing an Air Carrier

Consideration should be given to airlines that provide the most cost-effective travel arrangements. Visa Posts shall use International Organization for Migration (IOM) services where available.

1.2 Maximum Number of Refugees Per Flight

The availability of staff and facilities at the Port of Entry (POE) requires that the maximum number of refugees per flight be 75 refugees. Despite this restriction, it is still possible for a POE to be faced with a large number of arrivals, at the same time, from various parts of the world. Consequently, the POE must assume responsibility for ensuring adequate staff and facilities are available to accommodate arrivals. This is one of the reasons why it is so important for the POEs to receive Notification of Arrival Transmissions (NAT) in sufficient time (10 working days prior to refugee arrival in Canada).

If there is a need for a Visa Office to book more than 75 refugees on any given flight, a message stating the reasons for the request must be sent to the Matching Centre. This request must be sent to the Matching Centre at least 15 working days in advance of the flight date. The Matching Centre will consult regional officials and respond to the request within 2 working days.

1.3 Days of Arrival

1.3.1 Government-Assisted Refugees

a) Government-assisted refugee and humanitarian cases (GARs) may not arrive on Friday, Saturday, Sunday or on statutory holidays unless there are extenuating circumstances. Note that there are different statutory holidays by province.

An updated list of Canadian Statutory holidays is distributed to Missions and IOM each fall by the Matching Centre. See APPENDIX A for a generic list. This list can also be obtained by contacting the Matching Centre.

b) Some Friday arrivals may be allowed when the final destination is the local POE. Matching Centre and Regional Headquarters (RHQ) approval is required. Send your requests directly to Matching Centre which will coordinate.

c) Exceptions are dealt with on a case by case basis in extenuating circumstances. Contact the Matching Centre to coordinate exceptional cases.

1.3.2 Privately-Sponsored Refugees

a) Friday and weekend arrivals of privately-sponsored refugees (PSR) are permitted, but should be kept to a minimum. The name and telephone number of the sponsor must accompany the refugee to Canada. Notification of Arrival Transmissions (NATs) should indicate weekend arrivals as an alert to the POE staff and include names and telephone numbers of sponsors.

b) The Visa Office must ensure that NAT instructions are followed to ensure that the sponsor is advised of the arrival. See APPENDIX B for more info about NATs.

1.4 Time of Arrival

The organization/agency making travel arrangements abroad must ensure refugees will arrive at their final destination before 2200 hrs. local time.

1.5 Winter Arrivals

Between October 15 and April 15, winter clothing distribution centres are available exclusively at Ports of Entry in Montreal, Toronto, Calgary and Vancouver. Refugees requiring winter clothing immediately on arrival must arrive through these POEs.

1.6 Connecting Flights

When scheduling connecting flights, it must be emphasized that at least 4 hours are required at the initial POE to allow for landing procedures, clearing customs, distribution of winter clothing if applicable, and transportation to connecting flights. This is especially critical in Toronto as refugees often must travel between terminals or airports and several hours may be required.

1.7 Overnight Stay

It is sometimes necessary to delay onward travel to final destination to ensure arrival within the time guidelines. Arrangements must then be made for an overnight stay at the POE.

Onward travel to destination should not depart POE before 1000 hrs. because of required commuting time and the availability of escorts.

1.8 Ticket for Onward Travel

Travel arrangements for the journey from POE to final destination must be made at the time of original flight booking, with the exception of Quebec destined cases. Airline tickets must provide flexibility for onward travel up to 7 days after arrival at the POE to avoid the necessity of issuing a Transportation Warrant (IMM 0500) for a new ticket at the regular fare and requesting a credit for the lower cost of the unused ticket portion. IOM missions receive a copy of these Travel Guidelines.

Travel arrangements for all Quebec destined refugees are limited to Montreal. In addition, Quebec destined refugees should enter Canada at Montreal whenever possible.

1.9 Change in Travel Plans

Changes of destination when refugees are in transit should be discouraged whenever possible.

Officers at the POE must advise the CIC of final destination, using the client's file number, of any change in travel plans such as a missed connection, unplanned overnight stay and cancellation of onward flight.

Changes to another province must be reported to the Matching Centre. Fax (613) 957-5849

When refugees request a change of final destination upon arrival at a POE, there may be an additional cost of transportation to be considered that will require approval from the CIC POE Manager. When the existing loan exceeds $10,000, or the sum of existing and potential subsequent loans exceeds $10,000 the CIC Manager may approve the additional loan amount if he/she is satisfied that the loan applicant will be able to repay the loan.

1.10 Secondary Migration

Secondary migration is a serious issue once refugees arrive in Canada. The rate of secondary migration is higher for some provinces than for others. Migration is a historical and societal factor for the people of Canada. However, when resettled refugees arrive at a POE or in the community of final destination and decide to move to a community other than the community of final destination the impact of resources and in-Canada infrastructures increases proportionately. To that end it is very important that the visa officer consult the Community Profiles as a counselling tool.

It is more understandable that after 9-12 months a refugee may become familiar enough with Canada that they make a decision to move to an area of the country where they expect greater employment opportunities exist. Refugees often cite the need to be close to family in Canada as a reason for not going on to their final destination or moving soon afterwards. It is important that refugees identify during the interview where they have immediate family in Canada to inform destining decisions on the part of the visa officer.

Visa officers are to counsel refugees:

- to identify immediate family so that an appropriate destining decision can be made
- that when a destination is provided by the visa officer, the refugee is to go to the final destination and remain in the community while they receive settlement services that will assist them to become self-sufficient in Canada and
- refugees who stay in their community of final destination have access to programs and services that will benefit them in the longer term.

Refugees are to be counselled that if they decide to change their final destination at the POE, they will need to make their own arrangements for temporary accommodation, etc. The same applies if they move from their community of final destination to another community. Refugees are to be counselled that there are programs and services available to them in their community of final destination that may not be available to them in another community.

1.11 Monthly Transportation Plan

Whenever possible, Visa Offices must provide the Matching Centre with a monthly transportation plan, at least one month in advance of travel and with copies to regional offices concerned. The telex should include the flight numbers, the dates and the number of seats booked.

1.12 Cut-Off Date

The yearly cut-off date for GAR arrivals is December 15th.

2 MANAGING REFUGEE DESTINATIONS

Two distinct processes are used to destine Government-assisted refugees selected abroad to a final destination in Canada, Pre-Approved Plans (PAPs) and Destination Matching Requests (DMRs).

2.1 Pre-approved Plan and Canadian Community Profiles

Refugees Branch, in consultation with missions abroad and CIC regions in Canada, prepares a target/arrivals plan. This plan is referred to as a Pre-approved Plan (PAP). Essentially, the PAP - provides a distribution of mission targets to communities of final destination in Canada. (Note that the Pre-Approved Plan is used to provide final destinations to provinces/territories outside of Quebec.) The plan is approved and distributed before the end of each calendar year for the upcoming year.

The Pre-approved Plan does away with the need for missions to submit Destination Matching Requests (DMRs) to the Matching Centre at CIC National Headquarters (NHQ) except for Joint Assistance Sponsorships. The Pre-Approved Plan is used primarily by larger missions.

Missions use information provided by refugees, the PAP and the "Canadian Community Profiles" (CCP) manual to select the community of final destination that can best support the settlement and integration needs of each refugee case.

"Canadian Community Profiles" are updated annually by CIC in the regions with input from provincial counterparts. The information contained in the CCP is a companion document to the Pre-Approved Plan. Information on established refugee communities, refugee groups who settle well or do not settle well in particular communities and labour market information are included in the profiles to assist visa officers in choosing a community of final destination.

Missions send NATs to the Matching Centre when a final destination is selected and refugee travel arrangements are complete. A copy of the NAT is forwarded by the Matching Centre to the appropriate POE and CIC office of final destination.

The POE or the CIC of final destination forwards the NAT to the Resettlement Assistance Program (RAP) service provider. POE reception, CIC office and service provider begin preparations for receiving the refugees.

The Pre-Approved Plan is used to provide final destinations to provinces outside of Quebec. For refugees destined to Quebec, a Destination Matching Request is still required and final destinations are assigned by Quebec's MRCI.

2.1.2 Destination Matching Requests (DMRs) and Canadian Community Profiles

A Destination Matching Request (DMR) is used by missions abroad to request from the Matching Centre a final destination in Canada for Government-assisted refugees (GARs). Refugees may know little about Canada and have no contacts here. In these cases, the Matching Centre selects a city of final destination that can best support the settlement and integration needs of each refugee case referred with the information provided by the mission, the destination plan by province and city and information contained in the "Canadian Community Profiles" manual. Where refugees indicate they have family or friends in Canada, every effort is made to locate refugees in the same city or a city close to their immediate family or close friends should the refugee want this type of consideration. The region selects or confirms the city of final destination to the Matching Centre which sends a reply on the DMR to the originating mission with a copy to the appropriate in-Canada region. Missions should receive replies to DMRs within 10 working days from the date of request.

For refugees destined to Quebec, the destinations are assigned by MRCI.

If the mission overseas is unable to book a flight and send a NAT within 3 months of receiving a response to a DMR, the response will be considered as cancelled and a new DMR is to be sent by the mission.

DMRs Are To Be Addressed As Follows:

To: Matching_Centre@8502SRE

In the event of an electronic communications failure, please fax DMR to Matching Centre at (613) 957-5849

FOR QUEBEC CASES:To: Matching_Centre@8502SRE

Fax copy to Quebec at (514) 864-2080

The Matching Centre will forward a copy of the DMR to the appropriate region. DMRs will be confirmed by the Matching Centre within 10 working days.

If a visa office has not received a response within this period, the DMR should be re-sent indicating that it is a duplicate, with a back up by facsimile.

b) DMR Information:

Each message will indicate the name of the post sending the DMR. Each DMR is numbered sequentially beginning at 001 followed by the year in which the refugees will be travelling i.e. NROBI DMR 001/98. Not more than 50 persons should be included on a single DMR.

DMRs are to include:

a) family number (each separate family unit indicated);

b) person number (each person numbered consecutively);

c) file number;

d) surname;

e) given names;

f) date of birth;

g) sex;

h) CLPR;

i) relationship within family;

j) languages spoken;

k) years of education;

l) occupation;

m) years of work experience;

n) immigration category;

o) contacts in Canada, including name, address, telephone number (if available) of relative or friend;

p) other info which may have a bearing on choice of final destination, e.g. victim of trauma or torture, mobility, hearing or visually impaired, etc.;

q) CSQ number for cases requesting a destination in Quebec.

Example of a DMR

To: Matching_Centre@8502SRE

cc: MRCI (fax (514) 864-2080)

BNGKK DMR 001/99

1(1) B0123-4567 (DUONG) TAN TRAN 21JUL52 M VIET HOF VIET 11 PLUMBER 8 CR1 NO CONTACTS IN CANADA

(2) (PHAN) LY 18JAN54 F VIET WIFE VIET 8 EMBROIDERER 6

(3) (DUONG) VAN QUAN 01JAN82 M SON

2(4) B0123-5678 (NGUYEN) DUC THI 30SEP50 M VIET HOF ENG/VIET 13 INTERPRETER 5 CR1 HAS UNCLE (DO) TRI DONG RESIDING 201 YONGE ST, TOR

234-5678

(5) (VAN) THI DAO 09SEP52 F WIFE VIET 9 SHOEMAKER 2

3(6) B0123-6789 (NGO) VAN HONG 28FEB60 M SINGLE VIET 10 CARPENTER 9 CR1 HAS COUSIN (NGUYEN) DO TAN RESIDING 19 RUE CATHERINE, MONTL CSQ-4000-9000

2.2 Notification of Arrival

2.2.1 What is a Notification of Arrival Transmission (NAT)?

A NAT is sent by the missions to Matching Centre at CIC NHQ for all refugees or designated class immigrants (even those making their own travel arrangements). NATs are required to allow for necessary arrangements to be made at POE reception including travel to the final destination and planning for services upon arrival in the community of destination, e.g. by CIC, community based service provider organizations, sponsoring group, agency, hospital, etc). NATs also provide information that is entered into a computer-based system known as the Refugee Tracking System (RTS). Missions are familiar with these reports that provide a pattern of arrivals and intended arrivals throughout the calendar year. Reports are distributed to missions abroad and CIC in Canada throughout the year.

CICs and service provider organizations require notice of person(s) arriving in their area to arrange reception at the community level, locate accommodation, interpreter services, etc.. If you are aware that a refugee will not be travelling you must send a cancellation NAT with a brief explanation if available. This assists reception services and private sponsors who would other-

wise wait for the refugee and very often go to considerable expense preparing for their arrival. Refugees sharing the same itinerary and travel dates should be on the same NAT.

Refugees must arrive at their final destination in Canada no later that 2200 hrs. (local time), Monday through Thursday. Avoid arrivals on holidays, Fridays and weekends whenever possible. CIC and non-governmental settlement services are limited on those days.

Passengers need a minimum of 4 hours at the port of entry to allow for landing procedures, clearing customs, and transportation to connecting flights or overnight accommodation. If you cannot schedule arrival at final destination before 2200 hrs, make arrangements for overnight accommodation at the port of entry, including ground transportation from and to the airport. Avoid early morning flight departures to the final destination. Such flights should be after 1000 hrs. where possible.

Matching Centre must receive NATs at least 10 working days before the arrival date of the refugee. When an amendment to a NAT is necessary (eg. change of final destination, change of flight itinerary, cancellation, etc.) you must advise the Matching Centre immediately.

2.3 What is the NAT Format?

2.3.1 NATs should be addressed as follows:

To: Matching_Centre@8502SRE

In the event of an electronic communications failure, please fax NAT to

Matching Centre at (613) 957-5849

FOR QUEBEC CASES:To: Matching_Centre@8502SRE

Fax to Quebec at (514) 864-2080

The Matching Centre is responsible for accurate and timely distribution of NATs within Canada. Upon reception of a NAT, the Matching Centre will acknowledge this by return e-mail communication. If you do not receive an acknowledgement message by the next business day, the NAT must be re-sent immediately. Until an acknowledgement is received, you must assume that the Notification has not/not been received. Any refugees requiring special attention should be identified on the NAT by the post and specifics provided.

2.3.2 Information to be included on NAT

Each message must be entitled "NAT" and numbered sequentially beginning at 0001 at the start of each calendar year, i.e., NAT 0001/99, followed by point of origin, port of entry, date of arrival and flight details. Not more than 50 persons should be included on a single NAT.

a) family number (each separate family unit indicated);
b) person number (each person on NAT numbered consecutively);
c) file number;
d) surname;
e) given names;
f) date of birth;
g) sex;
h) CLPR;
i) relationship within family;
j) languages spoken;
k) years of education
l) occupation
m) years of work experience

n) immigration category, special program code;

o) final destination (CIC or CEC at final destination);

p) DMR reference (DMR number);

q) name of sponsor, CIC file number (if any);

r) onward travel arrangements to final destination.

s) visa or permit serial number

t) client needs e.g. mobility impaired - wheelchair required, hearing impaired - American sign or other specified interpreter required, advanced pregnancy, victim of trauma, accompanied by pets, other factors that will prepare CIC, service providers and/or sponsors to best meet the immediate needs of refugees.

2.4 Quebec

For refugees in transit through Montreal, Matching Centre must be advised by e-mail Matching Centre will advise the Ministère des Relations avec les citoyens et de l'immigration (MRCI).

Whenever possible, all refugees destined to the province of Quebec should enter Canada at the POE in Montreal (Dorval). MRCI has responsibility for managing refugee travel to community of final destination.

2.5 London Ontario

There is no reception staff at the London, Ontario airport. Refugees travelling to London should have travel arrangements made to Toronto. Ground transportation will be arranged in Toronto by the reception service agency. This is the preferred method of travel to London as ground transportation is arranged directly to the reception house.

2.6 Hamilton Ontario

All refugees with friends or relatives in Hamilton, and requesting Hamilton as a final destination should be destined to Toronto or Kitchener. Refugees should be counselled to accept temporary accomodation at the Toronto Reception Centres for mandatory orientation and counselling. They will be allowed to proceed to their final destination after receiving their first cheques and orientation, which is usually within 5 days of their arrival.

2.7 Advance Notice

NATs are to be sent by the visa post in sufficient time to prepare for the arrival of the refugee(s) and to advise the sponsor. Visa posts will ensure that NATs are sent to the Matching Centre at least 10 working days in advance of the travel date. If this is not respected, the Matching Centre may request that the arrival date be postponed.

2.8 IMM 1000

Visa Posts must ensure that the IMM 1000 document number (W...) is indicated on the NAT. It is impossible to produce accurate statistical reports on GARs without this number. The IMM 1000 is also used in some instances to prepare advance cheques for refugees.

2.9 Special Need Cases

Information about special need cases, such as women at risk (AWR) and disabled refugees who are coming under Joint Assistance Sponsorship (JAS), must be placed on a separate NAT and all such NATs must bear the appropriate program identifier (JAS)in the subject line.

2.10 Fast Track Cases

Fast-track (protection) cases where insufficient time exists for the Destination Matching Request (DMR) process must have the special identifier FTS on their NAT. In addition, final destination must be confirmed by telephone with the Matching Centre.

2.11 Witness Relocation

Refugees participating in the program known as Witnesses in Need of Relocation must have the special identifier WINOR on their NAT.

2.12 NAT Sequence

NATs must be numbered sequentially. Appendices are not acceptable. A new sequence must be started on NATs for refugees travelling in a new calendar year. i.e. The first NAT sent in December 99 for a January 2000 arrival will have the sequence number 001/00 assigned to it.

3 TRANSPORTATION AND ASSOCIATED COSTS

3.1 Transportation Loans- Inland Transportation Costs

OP 19, Section 9 stipulates that a loan may be approved only to the extent that transportation assistance is required. Inland transportation costs to final destination must be included on the transportation warrant (IMM 0500) by the responsible IOM mission or transportation company abroad. This may include meals en route, overnight accommodation, ground transportation and incidental expenses. Should inland transportation en route to the final destination be required and was not pre-arranged overseas, the travel costs may be approved under the Immigrant Loans Program.

3.2 Resettlement Assistance Program

Only Government-assisted refugees and Government-assisted humanitarian cases are eligible for the Resettlement Assistance Program (RAP). Therefore, IP 19, Section 9.3 d) can now only be applied to GARs who require an unexpected overnight stay at the POE. The cost of accommodation is provided as a contribution under RAP and therefore not entered on the IMM 0500. Please ensure a subsequent IMM 0500 is not approved to cover the cost of an overnight stay in Canada for GARs.

3.3 Unexpected Overnighting Requiring IMM 0500

a) Occasionally, privately-sponsored refugees (CR3,RA3,RS3) have to stay overnight at the POE. In such instances, the immigration officer can approve a Transportation Warrant IMM 0500) to cover the costs of the in-transit accommodation and related expenses (i.e. meals at the hotel). The warrant number of the original IMM 0500, where applicable, must be recorded in Box 1 of the subsequent IMM 0500. The loan holder must present the IMM 0500 to the hotel which will fill in the expenditure amount and send the original to the following address:

Citizenship and Immigration Canada
Jean Edmonds Building North Tower
4th floor
300 Slater Street
Ottawa, Ontario K1A 1L1

The hotel may wish to batch the bills and send them to NHQ on a weekly or bi-weekly basis.

b) Privately-sponsored refugees must be apprised by the visa officer that they must bear the cost of overnight stays and related expenses, where required.

3.4 Contribution Program for Transportation and Associated Costs

Special needs refugees such as disabled refugees, large refugee families and sole parent refugee families, particularly women at risk may qualify for a transportation contribution in lieu of a loan. The Visa Office may recommend that travel be paid through a contribution. Each request is reviewed individually at NHQ. Requests should be addressed to NAT-Resettlement with cc to the Matching Centre. See OP16/IP19 for detailed procedures.

4 EXCESS BAGGAGE

Excess baggage is often a problem as some overseas carriers permit the refugees to carry more baggage than North American carriers. Canadian carriers are enforcing their baggage regulations. Excess baggage will not be allowed to board unless it is prepaid by the refugee.

4.1 Regulations

The visa posts, IOM and others making travel arrangements should counsel refugees on the number, weight and dimensions of pieces of baggage, allowed per person travelling to Canada.

4.1.1 Checked Baggage

Passengers will be charged the applicable cost for each piece of baggage that exceeds the following:

Weight 32kg (70 lb)

Size158 cm (62 inches)

(Length + Width + Height)

Standard allowance - 2 pieces per person

Note: No piece of baggage weighing more than 45 kg (100 lb) will be accepted as checked baggage.

4.1.2 Carry-on baggage

Transport Canada has issued new baggage allowance requirements for carry-on baggage. The entitlements consists of:

Two pieces of baggage which, when combined, do not exceed

9" wide x 16" high x 22 1/2" long for under seat stowage.

And: Your choice of the following items for storage in the overhead bin:

a) One soft-sided, single-suit garment bag, not exceeding

9" wide x 22' 'high x 22 1/2" long when folded in half;

OR

b) One briefcase or one laptop computer or one purse not exceeding a width of 4 1/2":

Baggage exceeding the above guidelines must be checked in. Any oversized suitcase, parcel, or bag will have to be repacked at the departure point to meet air carrier dimension and weight requirements before boarding a flight to Canada. Refugees should also be advised that temporary baggage storage units are no longer available in Canadian airports.

4.2 Personal and Household Effects

Refugees have responsibility for shipping arrangements and related costs for their personal and household effects. These costs cannot be financed under the Immigrant Loans Program nor under the Resettlement Assistance Program (RAP).

4.3 Prohibited Items

Visa Posts and IOM should counsel refugees regarding items, especially food stuffs, which cannot be brought into Canada. Excessive delays are caused at POEs when Canada Customs or Agriculture Canada officials must search each piece of baggage.

4.4 Personal Responsibility

Ensure that refugees have their own airline tickets and are aware that they are each responsible for their own baggage claim tickets. One refugee must not/not be given the claim tickets for an entire flight of refugees.

5 MINORS (Unaccompanied)

5.1 Age of Majority

The age of majority varies from province to province in Canada. The age of 18 is considered the age of majority in Quebec, Manitoba, Saskatchewan and Alberta. The age of 19 is considered the age of majority in Newfoundland, Nova Scotia, Prince Edward Island, New Brunswick, Ontario and British Columbia.

5.2 Avoid Overnight Stay

Unaccompanied minors are often met by the sponsor at the POE, but on occasion they must proceed inland to be met by the sponsor at final destination. Therefore, if at all possible, travel arrangements for minors are to be made in such a manner that overnight stay at the POE is avoided.

5.3 Child Minding Services

In those cases where an overnight stay is unavoidable, arrangements must be made for child-minding services, as minors cannot be left alone. Neither reception services nor POE have the mandate or facilities to provide overnight stays for privately-sponsored minors in transit. While minors are generally placed with a family during the flight, there are no standard arrangements for the duration of the stay at the POE, which can leave the child in a potentially vulnerable situation. IOM must contact either the parent, guardian or sponsor directly before arranging flights in order to avert any difficulties.

5.4 Contact Information

Because it is particularly important to clearly identify unaccompanied minors, travel arrangements must always be provided on a separate NAT or a message separate from the NAT. This communication must include the name, telephone number and address of the contact or sponsor in Canada in case of an emergency or of a change in travel arrangements. Please ensure that the NAT has been received.

5.5 Assigned Refugee

If a minor is travelling in the company of another refugee assigned to provide assistance during the flight, that person must also be identified on the NAT and/or message.

5.6 Airline Restrictions

Some transportation companies in Canada place restrictions on minors travelling alone. Visa posts and IOM must ensure, when making travel arrangements abroad, that the carrier for the Canadian leg of the trip will allow the minor to travel to the final destination unaccompanied. Confirmation of these arrangements must be included on the NAT.

6 PETS

6.1 Financial Responsibility

There are no provisions to pay for the transportation of pets under the Immigrant Loans Program. If a refugee wishes to take along a pet, he or she will have to bear the costs of transporting the pet to the final destination in Canada. These costs must be paid in advance overseas. The refugee will have to ensure that the pet meets Customs and Agriculture Canada requirements, and make travel arrangements to a local kennel or other appropriate lodging for a period of quarantine, if required. Many ground carriers will not transport pets. The refugee will also be expected to cover the costs of placing the pet in a kennel while awaiting permanent living quarters, as temporary accommodation is likely not available to those persons with pets. The costs of an inspection by an Agriculture Canada veterinarian at the POE must also be paid by the client.

6.2 Permanent Accommodations

Refugees must be made aware by Visa Posts and IOM, prior to their departure, that permanent accommodation is difficult to locate when the family has a pet, because many landlords do not

allow any animals in their buildings. In the case of sponsored refugees, it is essential that the sponsor be made aware of the presence of a pet.

6.3 Import Restrictions

6.3.1 Quarantine Requirements

Quarantine requirements should be obtained before travelling, and the necessary steps taken to adhere to the requirements. Animals requiring vaccination must receive such vaccines within a prescribed time period prior to travel. Visa Posts and IOM must ensure that refugees are aware of the requirements well ahead of travel dates.

Requirements are subject to change. For current restrictions, contact:

Import Section
Animal Health
Agriculture and Agri-food Canada

174 Stone Road West
Guelph, Ontario
N1G 4S9

Telephone number: (519) 837-9400
FAX number: (519) 837-9771

6.4 Advance Notice

Visa posts should indicate on the NAT when refugees are traveling with pets.

Holidays Recognized in Canada

January 1st	New Year's Day	
January 2nd		Quebec only
3rd Monday of February	Family Day	Alberta only
Good Friday	date variable	
Easter Monday	date variable	
3rd Monday of May	Victoria Day	
June 24	Fête Nationale	Quebec only
July 1	Canada Day	
2nd Monday of July	Orangemen's Day	Newfoundland only
1st Monday of August	Civic Holiday	except Quebec and Alberta
1st Monday of September	Labour Day	
2nd Monday of October	Canadian Thanksgiving	
November 11	Remembrance Day	except Quebec
December 24	Christmas Eve	Quebec only
December 25	Christmas Day	
December 26 or the first normal working day after Christmas Day	Boxing Day	
December 31	New Year's Eve	Quebec only

****Note : The official cut-off day for Government Assisted Refugee arrivals is December 15th. Arrangements should be made through the Matching Centre for any refugees travelling after that date. Only exceptional cases can be accommodated between cut off and the first official day for travel. This is usually the first normal working day following New Year=s Day. For Quebec, it is usually the second normal working day.*

APPENDIX O
WEB SITE ADDRESSES (UNIVERSAL RESOURCE LOCATORS - URLS)

Citizenship and Immigration Canada

http://www.cic.gc.ca/english/index.html

Immigration and Refugee Board (IRB):

http://www.irb.gc.ca./

The Convention Refugee Determination Division of the IRB deals exclusively with claims to Convention refugee status made in Canada. The Division is responsible for determining refugee claims fairly and expeditiously, so that Canada can offer protection to Convention refugees, while discouraging those who make unfounded refugee claims.

http://www.irb.gc.ca/crdd/index_e.stm

Guidelines on Women Refugee Claimants Fearing Gender Persecution

http://www.irb.gc.ca/guidline/women/index_e.stm

United Nations High Commissioner for Refugees (UNHCR):

http://www.unhcr.ch/

The UNHCR site contains a large number of important and useful documents and links, including the 1951 Geneva Convention relating to the Status of Refugees, the 1967 New York Protocol, the *Handbook on Procedures and Criteria for Determining Refugee Status*, the *Resettlement Handbook*, the *International Covenant on Civil and Political Rights*, the *Universal Declaration of Human Rights*, the *Covenant on Economic, Social and Cultural Rights*, the *International Bill of Human Rights*, etc.)

International Organization for Migration (IOM):

http://www.iom.int/

Canadian Council for Refugees:

http://www.web.net/~ccr/

The CCR site provides links to virtually all other Canadian and international organizations and resources concerned with refugees:

http://www.web.net/~ccr/related.htm

IMMIGRATION

Canada

Chapter OP 5
Processing Independent Immigrants



Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Processing Independent Immigrants

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1. INTRODUCTION

1.1 What this Chapter is about

This Chapter describes the processing of applications for permanent residence in Canada submitted by applicants in the **Independent Class**.

Successful applicants in the independent class will be selected primarily due to their ability to make a significant contribution to the economic, cultural and social fabric of Canada. Applicants in this class are selected in addition to those selected because of the presence in Canada of close family members or obligations with respect to refugees or in furtherance of Canada's humanitarian tradition toward the displaced and persecuted.

1.2 Policy intent

The *Immigration Act* lists several policy objectives (A3).

Those objectives relating to the selection of independent immigrants are:

- to support the attainment of such demographic goals as may be established by the government of Canada in respect of the size, rate of growth, structure and geographic distibution of the Canadian population;
- to enrich and strengthen the cultural and social fabric of Canada, taking into account the federal and bilingual character of Canada; and
- to foster the development of a strong and viable economy and the prosperity of all regions in Canada.

Other objectives to keep in mind include:

- ensuring that anyone seeking admission is subject to standards that do not discriminate in a manner inconsistent with the Canadian Charter of Rights and Freedoms; and
- maintaining and protecting the health, safety and good order of Canadian society.

1.3 Information for applicants

Information will be provided to potential applicants regarding the selection process. This will be done to achieve a number of objectives.

a) Applicants who are well informed about the selection system should lighten our workload in that those who have no chance of succeeding would elect not to apply. Those that succeed will be more informed which will reduce the need for counselling. We will, as a result, be more productive.

b) By providing information to the potential applicant at the outset we will be seen to operate in a more transparent and defensible fashion.

1.4 Effective date

This manual chapter is effective May 1, 1997, the day of the implementation of the amended regulations changing to the use of the National Occupational Classification (The NOC).

2. PRE–SCREENING THE APPLICATION

2.1 Submission of applications

a) Preliminary Application Questionnaires (PAQs)

The use of Preliminary Application Questionnaires (PAQ's) is the decision of the program manager based upon processing abnormalities at the post which do not lend themselves to the sending of a self–assessment kit. The PAQ serves as an initial means of assessing an independent applicant's ability to meet the selection criteria without requiring the completion of formal applications for permanent admission (IMM 0008) and payment of cost recovery fees.

After evaluating the PAQ against the selection criteria outlined in section 4., you will:

- if the information provided indicates the applicant may be acceptable, recommend that the applicant complete a formal application (IMM 0008). Success should never be guaranteed and the applicant should be fully advised about the non–refundable nature of the processing fee for the next stage of processing;
- if the information indicates the applicant is unlikely to be accepted, advise the applicant by letter or by return of the PAQ with an appropriate note. Applicants should be discouraged from submitting a formal application. However, applicants who receive a negative assessment on the PAQ, but who request further consideration, **must** be permitted to complete an IMM 0008.

PAQ's are only preliminary assessments. They are not affected by lock–in factors associated with those processes for which processing fees are collected. The resulting assessment is not binding on the applicant or Citizenship and Immigration.

In addition, applicants who specifically request an IMM 0008 rather than a PAQ will be provided with an IMM 0008. You will accept, for formal processing, all IMM 0008's received with the correct processing fee even if no PAQ was previously submitted and assessed. The processing fee is non–refundable even if paper screening of the IMM 0008 results in refusal. You should take every precaution to ensure that applicants understand this fact when they submit their application and fee.

b) Self–Assessment Kit

The one–step application procedure is designed, through the use of self–assessment kits, to reduce the number of times a file is reviewed prior to a decision being taken, to reduce processing times, and to place the onus on the applicant to ensure that only completed applications, including the appropriate cost recovery fees, are submitted for assessment. Incomplete applications or those which are not accompanied by the appropriate fees will be returned to the applicant and no file will be created.

The Kit distributed to applicants upon request will include the required application form (IMM 0008) for the principal applicant, a copy of the current General Occupations List (GOL) and any local or visa

office–specific forms. Additional forms (IMM 0008s) to be completed by the spouse and all dependant children over the age of 18 will be photocopied from the original supplied in the kit. Potential applicants will be requested to assess their own professional qualifications against the occupations contained in the GOL; applicants who do not have the necessary skills to meet the requirements of one of those qualifications will be discouraged from submitting a formal application. Those individuals who choose to submit a formal application and pay the requisite fees, notwithstanding a stated intended occupation which is not on the GOL, should be refused. Individuals who are of the opinion that their professional or vocational qualifications meet those of an occupation listed on the GOL and who have at least 60 points following their self–assessment, should be encouraged to complete the required application forms and submit a formal application along with ALL required supporting documentation and applicable fees.

2.1.1 What is a completed application?

A completed application consists of:

- a signed IMM 0008 for the principal applicant, his/her spouse and all dependants 18 years of age and older;
- supporting documentation to allow you to render a decision on the selection criteria;
- the correct cost recovery fees.

2.2 Who is eligible to apply?

Independent applicants are persons who intend to enter the labour market and have the intention and ability to be self supporting upon their arrival in Canada. In order to qualify, applicants must accumulate sufficient units of assessment to meet the pass mark.

2.3 Who can be included in an application?

Applications for permanent residence in Canada will include the principal applicant and all of his or her dependants as defined under "dependant" in R2(1). This means the applicant not only may but **must** include his or her spouse and all dependant children **plus** any dependant children of the spouse. The applicant and all dependants must be determined to be admissible, even if they have no intention of accompanying the principal applicant, in order for visas to be issued to the principal applicant or any dependants.

Dependant children are further defined as unmarried and under 19 years of age at the time of application. Applicants over 19 years of age must be unmarried or married before 19, and be enrolled in attendance as a full–time student in an academic, professional or vocational program at a university, college or other educational institution. In addition, such dependants must be continuously enrolled in such a program since their 19th birthday and be wholly or substantially dependant on their parents. It should be noted that the term "unmarried" in this context means "not currently married". Accordingly, an applicant who was married and is now widowed or divorced may still meet the requirements of "dependant". In addition, children who are over 19 may be considered dependants if they have a medical condition which makes it impossible to support themselves, and they are supported by their parents. (Refer to OP 2, section 5. for more indepth information on dependent children)

Exceptions to this requirement are listed in:

a) R9(1.01) – where a visa officer does not issue an immigrant visa as an accompanying dependant to a son or daughter of an immigrant referred to in subsection (1), or of the spouse of that immigrant, the visa officer shall not issue an immigrant visa as an accompanying dependant to a son or daughter of that son or daughter.

b) R9(2)(a) – the spouse of the applicant when you have written evidence that the applicant and the spouse are separated and no longer living together, as well as a son or daughter when custody has been given to the spouse or former spouse.

c) R10(1.2) – when an immigrant visa has been refused to the spouse, son or daughter as an accompanying dependant of an assisted relative, the off–spring of that spouse, son or daughter cannot be issued with an immigrant visa.

2.3.1 Common law and same–sex partners

The *Immigration Regulations* define spouse as someone of the opposite sex to whom an individual is joined in marriage. Due to this definition, FC sponsorship of same sex or common law spouse or inclusion of same sex or common law spouse of independent, refugee or other applicant is conventionally excluded.

In processing applications involving same sex or common law relationships, you should consider each application on its individual merits. You should review the application and process it under independent regulations.

You should accept those same sex or common law spouses that qualify under normal selection system or where R11(3) is warranted if selection points do not reflect applicants' ability to successfully establish. In these cases the bona fides of the relationship are probably not relevant to the assessment of the application.

If the options in the above paragraph are not viable you should review same sex or common law applications for H and C grounds. Where H and C grounds are compelling it is appropriate for Program Managers to use their R2.1 authority to waive R8 and authorize the issuance of an immigrant visa. You should recognize that undue hardship would often result from separating or continuing the separation of a bona fide same sex or common law couple.

You should assess relationships to determine that they are bona fide (in terms of duration and stability of relationship) and not entered into primarily for the purpose of gaining admission to Canada of one of the parties. Where H and C factors are present and the applicant is otherwise admissible you should issue an immigrant visa. Where no grounds exist to accept application, you should refuse the applicant as an independent under A19(2)(d), R4 etc.

2.4 Who must complete an IMM 0008?

Everyone 18 years of age or over must complete an IMM 0008. Spouses are not exempt from this requirement. You **must** also ask dependants not accompanying the principal applicant to complete IMM 0008s to verify identity and relationship or to assist in their examination. If you do, explain that the IMM 0008 is intended to serve as a source of information, and not as an application for permanent residence.

2.4.1 Lock–in age of dependants

The age of under 19 dependent sons or dependent daughters is locked–in on the date the IMM 0008 and correct processing fee are received by the Department.

It is very important to date–stamp the IMM 0008 as soon as it is received.

See OP 1, section 3.4, for more information about the lock–in date.

The dependant must also meet the definition as set out in R2(1) at the time of visa issuance in order to receive an immigrant visa.

2.5 Pre–screening the application

Check the IMM 0008 to see if:

- it is properly completed and signed by the applicant (see section 2.5.1 below);
- all requested documents have been submitted with it;
- photographs of the principal applicant and each dependant, whether accompanying or not, with their names and dates of birth printed on the back, have been attached;
- the applicant is a physician or professional requiring registration or licencing in Canada (see section 2.5.4 below);
- a background check is necessary (see IC 1, *Security and Criminal Screening of Immigrants*); if yes, proceed immediately with the listing;
- an interview is required (see section 3.7), if yes, proceed immediately with scheduling;
- the applicant intends to reside in Quebec; if yes, see section 2.6 for instructions.

2.5.1 Necessity for accurately completed IMM 0008

You need an accurately completed IMM 0008. This form, when signed, will be the basis for your decision.

Note: All IMM 0008s in finalized cases must be retained either in paper form or on microfilm for 65 years. See OP 1, section 14. for details of the Thin File Policy.

2.5.2 Occupational coding

The National Occupational Classification (NOC) is a systematic taxonomy of occupations in the Canadian labour market. The NOC presents a new structure for understanding the labour market and reflects occupational changes that have taken place over the past two decades.

The four digit NOC designation divides all occupational titles into 522 unit groups. Some of these sub–groups have been further divided to the five–digit level , resulting in 897 occupational sub–groups. In all, approximately 25,000 occupational titles are included in the NOC.

The two major attributes of jobs which were used as classification criteria in developing the NOC matrix were skill level and skill type. Skill level is, generally, the amount and kind of education and training required to enter and perform the duties of an occupation in Canada. Four skill levels are identified in the NOC. Skill type is generally the kind of work performed (e.g. health occupations, business etc.).

In order to classify an applicant according to the NOC, you will need to know much more than the applicant's job title. Since the NOC is based primarily on skill levels and job duties you will have to know much more about the applicant's main job duties and education than in the past. Step one in the classifying process is to identify the education required for employment in that position. Step two is to determine the skill type or employment sector in which the job is found. Step three is to determine the applicant's main job duties. The applicant may be assigned to a specific four or five digit position only when they perform several of the specified main, including the essential job duties at a Canadian skill level regardless of the applicant's current job title.

All positions are classified as if the work was performed in Canada. Should a person perform a job overseas that is not found in Canada then they would not meet any four digit position and could not be selected. Should a person be a government employee in their own country but the work is performed in the private sector in Canada then the applicant would be assigned to a private sector position. Conversely if the applicant worked in the private sector in their own country but the position would be a government position in Canada they would be assigned a position within the "occupations in government" group.

Certain synthetic codes in the NOC format have been devised in order to be able to process and classify applicants who cannot be classified under NOC occupational codes.

2.5.3 Assessment of occupations

Your decision to assess and code an independent applicant in a given occupation, is often crucial to the success or failure of the application. The decision on occupational coding is a separate processing step from unit scoring or the use of positive or negative discretion. Occupational coding should come first.

The most important criterion in the coding decision is whether the applicant is qualified to work in the proposed occupation in Canada. We can consider labour market information from Canada, when we are making the coding decision. Some of the legitimate considerations that labour market information may cover are:

1. Is there a mandatory requirement for licencing or certification? If so, has the applicant submitted anything to show that he or she is likely to qualify, either an informal occupational assessment or other proof?
2. Does the applicant satisfy all or only part of the NOC definition, with regard to formal education, training and experience?
3. With regard to the occupational title, does the applicant's occupational title in his or her home country indicate the same occupation as described in the NOC? The officer must carefully compare the duties of the applicant's work with the duties in the NOC definition.

   An applicant must be assessed in all occupations that are indicated as occupations for which he or she is qualified and prepared to follow in Canada. This includes alternate occupations inherent in the applicant's work experience. There is no obligation to accept an applicant based on a claimed occupation for which he or she is not qualified, but an assessment must at least be made even if the person is then placed in a different occupation for final evaluation.

With regard to coding, it should not be assumed that an applicant is qualified or genuinely prepared to work in an included occupation. Both aspects need to be investigated by the officer. If the officer does assess the

applicant in an included occupation, points for experience and Employment Training Factor (ETF) are allotted only for this occupation. The experience factor, therefore will be based on only the part of the applicant's experience in the assessed occupation.

If the officer is convinced that an applicant is qualified for an included occupation but is **not willing** to work in it, then the applicant **should not be** assessed in that occupation.

Officers should be prepared to exercise negative discretion when the points do not accurately reflect the applicants' prospects for successful establishment in Canada. The information used in making this decision must be available to the applicant and the officer's concerns should be communicated to him or her to allow the opportunity for the applicant to respond to these concerns. It is not necessary that the applicant will have a zero rating for personal suitability, but negative discretion should not be used unless the applicant's personal suitability has a low rating.

The officer must use care to avoid a double assessment of selection factors: for example, the applicant has already been assessed on their official language capability. However, if the occupation is such that labour market information indicates that a much higher level of language proficiency is required to work in that occupation AND the applicant has not prepared financially or in other ways for these settlement problems, the officer may consider negative discretion.

2.5.4 Assessments of occupations for graduate students

Concern has been raised about whether graduate students applying for permanent residence should be coded to occupations in which they have limited or no post–university experience. In general, possession of a Ph.D. simply means that a person has been a successful student. It does not represent anything about employability.

There are two considerations to be made in assessing an application submitted by a graduate student. Firstly, is the applicant coded to an appropriate occupation which is included on the General Occupations List and secondly, is the applicant an intending immigrant?

Coding: Where an applicant with little or no post–university experience applies for assessment, particularly under an occupation where licencing or registration is required, the applicant should not be coded to the occupation. Given that most graduate–level disciplines have a research component, such an applicant may be employable as a research assistant.

The onus is on the applicant to demonstrate to the satisfaction of the assessing officer that he/she has sufficient experience during graduate studies **as a researcher** to warrant the awarding of points under the experience factor. In addition, the research performed may indeed provide acceptable experience for practice of the profession itself. However, should the experience prove to be exclusively of an academic or research nature only, coding to the occupation proper is not acceptable. Each case would have to be examined based on its own merit.

There is but one point for the exercise of discretion in the assessment of an independent application which is following occupational coding. Officers and local staff responsible for paper screening should not use discretion at this stage of the application process to find a "best fit" for applicants. Either the applicant has the qualifications to meet an occupation as described in the NOC which is on the GOL, or he/she does not. A successful graduate student is just that; a successful student.

Intent: Many applicants land and quickly leave Canada to resume their post–grad studies. In cases such as these, perhaps a more careful scrutiny of the applicant's intentions may be warranted. What is the motivation behind the application? Is permanent residence seen as a safety net should more favourable circumstances fail to be maintained or materialise? Do the applicants intend to establish permanently in Canada?

2.5.5 Immigrants requiring registration or licencing

The onus is always upon the principal applicant to show that he/she meets selection requirements. Informal occupational assessments are one means for the applicant to show that he/she deserves to be coded to a certain occupation, and is capable of establishing successfully in Canada.

While these assessments are an important and useful tool, an informal assessment can never be made a mandatory part of the application process, as there is no provision in the legislation to make a third–party assessment mandatory. An applicant may submit anything that he/she feels is to his/her benefit. If the applicant prefers to submit other proofs of occupational readiness, he/she may do so. Applicants should be advised that the onus is on them to prove that they would be able to work in a given occupation in Canada, and that, in many cases, an informal assessment is the best available proof that an applicant has the claimed occupational qualifications, in the Canadian context.

It should always be made clear to applicants, especially with regard to occupations where licencing or certification is mandatory, that a positive informal assessment is not a guarantee of a license, and that, in most cases, the assessing body is a professional association, not the actual authority empowered by provincial or federal law to issue a license or certificate. In addition, it should be made clear that most Canadian professional and trades licencing bodies operate at the provincial, not the national level, and that standards vary from province to province. Applicants should be advised that their qualifications will be subject to further assessment after arrival, especially in occupations where licencing or certification is mandatory, and that they should be prepared to sit further examinations and pay additional fees if necessary.

There may indeed be cases where applicants can show that they have the equivalent of Canadian qualifications, without submitting an informal assessment. For example, graduates of educational institutions that are renowned for their excellence, or applicants who have already worked successfully in Canada, may be able to establish their qualifications by submitting professional degrees and letters of reference. In such cases, it would be unreasonable to ask the applicant to submit an informal assessment as well.

A sample letter is located in OP 1, APPENDIX E.

Applicants or dependants who are physicians must sign a Declaration – Medical Practitioner's Registration (IMM 1456). Other professionals requiring licenses or registration to work in Canada must sign a Declaration – Professional Registration (IMM 1455).

Ensure the "remarks" section of the Immigrant Visa and Record of Landing (IMM 1000) indicates the applicant signed the IMM 1456 or IMM 1455. In addition, for physicians, insert the special program code OMD (Occupation Medical Doctor) on the IMM 1000 (see IH 2 – Special Programs).

Instructions on the informal assessments completed by the Canadian Council of Technicians and Technologist (CCTT), the Canadian Council of Professional Engineers (CCPE) and the Canadian Association for Occupational Therapists are located as APPENDIX C, APPENDIX D and APPENDIX E respectively.

2.6 Quebec cases

The Canada–Quebec Accord recognizes that the province of Quebec is solely responsible for the selection of independent applicants destined to the province of Quebec. Under the Accord you are solely responsible for assessing an applicant's admissibility and are the only one who can issue immigrant visas. You may therefore refuse applicants even if they have already been accepted by Quebec. At the same time, you will not issue an immigrant visa to an immigrant destined to the province of Quebec, who has not met Quebec's selection criteria.

All Canadian Visa Service (CVS) or Service d'immigration du Québec (SIQ) offices which are contacted by applicants (other than CRs, DCs or FCs) send the applicants the required documents (the PAQ or the IMM 0008) and ask them to submit their application to either the SIQ or the CVS office, depending on their destination in Canada.

Applicants who do not mention their destination and send their application to the SIQ, shall be deemed to have chosen Quebec as their destination. Applicants who do not mention their destination and send their application to the CVS shall be assessed against the profile established locally by the CVS and the SIQ, and shall be referred to the SIQ if they correspond to this profile.

Upon receipt, the CVS or the SIQ shall record the date on the IMM 0008 and this shall be considered the date of receipt of the application.

The SIQ assesses the applications it receives for purposes of selection. Where applicants do not qualify as independent immigrants but might qualify as ARs, the SIQ will proceed to assess them against the Quebec criteria and against the federal criteria. When applying federal criteria, Quebec shall use the Quebec occupation open list for assessing the employment factor.

When an applicant is refused, the SIQ sends a letter of refusal to the applicant and, to the CVS, a copy of the letter of refusal and a copy of the IMM 0008 or Demande de certificat de sélection (DCS) and in the case of ARs the occupational title and numerical code in which the applicant has been assessed. The SIQ also advises the candidate in writing that he or she may also submit an application to the CVS for another destination in Canada.

If the applicant is accepted, the SIQ issues the CSQ and sends to the CVS a copy of the CSQ, and the original IMM 0008.

The CVS acknowledges receipt of the documents listed above by informing the SIQ of the file number attributed and initiates the statutory procedures applicable to the applicant who belongs to the immigrant class for which the CSQ was issued.

If the CVS issues a visa, the CVS will record the appropriate computer code on the IMM1000 which corresponds to Quebec's decision and return a copy of the CSQ to the SIQ with a copy of the IMM1000. If the CVS rejects the visa application, it returns a copy of the CSQ to the SIQ with a copy of the letter of refusal. If a Minister's Permit is necessary, the CVS informs the SIQ of this and sends a copy of the permit to the SIQ.

Addresses for Quebec Immigration Service Offices Abroad and MRCI Offices in Quebec are located in IR 2, table titled **Territorial jurisdiction o Quebec Immigration offices abroad and MRCI offices in Quebec.**

2.6.1 Local procedures

To facilitate application of the directives approved by the joint committee, the CVS and the SIQ may agree to additional procedures which are tailored to local circumstances, provided that such procedures are in compliance with the accord.

The purpose of such procedures shall be to set out specific co-operative arrangements concerning:

- the obtaining and verification of documents related to statutory examinations;
- the nature of the information and documents required from the applicants;
- the exchange of documents between the CVS and the SIQ.

Although the joint directives provide some latitude for local arrangements between SVC and SIQ in implementing the accord, it was not the intent to create a formal, written agreement to supplement the accord and the joint directives. Rather, the intention was that visa offices should arrive at an understanding with their SIQ counterparts on such matters as the type of cases to be referred to Quebec after paper screening, etc.

2.7 Quebec selection criteria

Quebec's independent immigration program maintains four main objectives that guide its immigration policy: 1) to increase the proportion of francophone immigration; 2) to maximize the economic benefits of selection; 3) to manage the volume of immigration in terms of Quebec needs and capacity of integration; and 4) to select independent workers who are more adaptable to the international labour market.

With regard to independent workers, Quebec's point system gives more weight to labour market factors such as education, language ability and employability and occupation mobility (EMP). Points under the EMP factor, take account of an applicant's education, work experience, age, language ability, and knowledge of Quebec. Failure to meet a pre-established EMP passmark on paper screening will result in an automatic processing bar, unless the applicant has a "guaranteed job offer" or an "occupation in demand". Failure to meet a minimum experience threshold will continue to be an automatic processing bar in Quebec's independent category.

The Quebec selection grid (see IR 2, table titled **Quebec independent immigrant selection grid**) combines the selection criteria of the five categories (ND, AR, EN, NV, SE) into a single grid. Each category has its own passmarks and weighting of the selection criteria. AR applicants are assessed under Quebec ND criteria. Those who do not meet Quebec ND criteria are assessed by Quebec under the federal AR criteria.

2.7.1 Interviewing for Quebec selection

When it is impossible to hold a selection interview with the applicant, the SIQ may, in accordance with locally agreed procedures, ask the CVS to conduct the interview on its behalf. The CVS shall accede to the SIQ's request wherever possible. In the case of ARs for the assessment of the employment factor in the federal grid, the CVS will use the Quebec occupational demand list.

The service which conducts the interview or decides not to conduct the interview is responsible for ensuring that the information obligations of the other service are fulfilled on behalf of that service. The CVS and the SIQ determine locally the essential counseling topics. Each service provides the other with the information brochures that are to be given to applicants.

3. ASSESSING THE APPLICATION – GENERAL

3.1 Examining the applicant and dependants

You must be satisfied applicants and their dependants, whether accompanying or not, are not described in A19 and otherwise meet all requirements of the Act and Regulations [R9(1)(a)].

Non–accompanying dependants must pass medical examinations. They must also prove they are not inadmissible for criminal or security reasons.

Note: Non–accompanying dependants need not be in possession of a passport or satisfactory travel document.

3.1.1 Why examine non–accompanying dependants?

Applicants could declare as "non–accompanying" all dependants they know, or suspect, are inadmissible under A19. Once landed, they could sponsor their previously non–accompanying dependants. They could also argue at the IAD that these dependants should be allowed to come to Canada.

3.1.2 Consequences of not presenting all dependants for examination

Permanent residents who did not present all their dependants for examination are reportable under A27(1)(e). They may be removed from Canada.

3.1.3 Exceptions to R9(1)(a)

There are two exceptions to R9(1)(a).

You are not required to examine a dependant who is:

- the spouse of the applicant where, on the basis of written evidence, you are satisfied that the spouse is separated from and no longer living with the applicant [R9(2)(a)(i)],

  Note: The exception applies only to spouses whose marriage has broken down. Spouses not living together for reasons other than a marital breakdown are not exempt from examination.

  Recent separations should be viewed with caution. Applicants sometimes claim marital breakdown to exempt a spouse from examination only to reconcile shortly after the applicant has been landed in Canada.

  The expression "written evidence" normally means evidence of a legal separation or a letter from a lawyer showing that divorce proceedings are underway. However, you may also accept any document, including statutory declarations showing details of the separation, provided you are satisfied that the applicant and spouse are actually separated.

- a son or daughter of the applicant, or of the spouse of that applicant, where you are satisfied that custody or guardianship of the son or daughter has been legally vested in the separated spouse of the applicant or a former spouse of the applicant [R9(2)(a)(ii)].

  Note: "Legally vested" has the meaning given to that term by the laws of the country where the child lives. It normally means that there is a custody or guardianship order. In some countries custody of a child is vested in a particular parent according to sex. A custody order is not required; however, it is advisable to receive the written consent of the non–custodial parent for the child's travel to Canada.

  Applicants who have the intention of later sponsoring a child who is presently in the custody *of a former spouse should have the child medically examined.*

  You may not issue an immigrant visa to separated spouses or children in the other parent's custody even if they are examined [(R9(2)(b)].

  Note: Dependants who are exempted from examination under R9(2)(a)(i) or (ii) cannot later be sponsored by the person who sought to exclude them from examination in the first place. These unexamined dependants are not members of the family class [R4(2)(b)].

3.1.4 Recording non–accompanying dependants on the IMM 1000

Record names of non–accompanying dependants in the remarks section of the IMM 1000. Indicate whether or not they were examined or exempt under R9(2)(a) (see ID 3, *Landed Immigrant Data System*, APPENDIX A, item 3.)

3.2 Establishing identity

All applicants must prove their identity. The onus is on applicants to provide evidence of their identity [A8(1)]. They must also answer your questions truthfully and provide the documents you need to establish that they are not inadmissible [A9(3)].

3.2.1 Acceptable identity documents

Clients can establish their identity with a passport or identity cards/certificates.

3.2.2 Assessing documents

Any document on its own may fail to establish identity. Documents should be consistent one with the other and weighed according to their reliability and relevance. For example, one household registry on its own may not be reliable. You may need to corroborate it with several earlier registries for the same household, or hospital birth records and national identity cards.

Be suspicious of documents issued to replace lost or stolen documents or identity cards. Look closely at identity documents which post–date interest in immigration.

It may help to compare documents with those provided by other members of the same family or against old immigration files for the same family.

When in doubt, you may consult:

- the visa office responsible for the applicant's country of citizenship; or

- the issuing agency of the document.

3.3 Medical requirements

Independent applicants are inadmissible if they or their dependants are likely to be a danger to public health or to public safety [A19(1)(a)(i)] or if their admission would cause or might cause excessive demands on health or social services [A19(1)(a)(ii)].

Instructions on having applicants undergo a medical examination are found in OP 14. Chapter OP 14 also explains how to interpret medical results to determine if the applicant is medically admissible and the steps to take before informing applicants that they are refused for medical reasons.

3.3.1 What to do in medically inadmissible cases

When the applicant or dependant is found to be inadmissible for medical reasons, and no new information is provided (see the procedure described in OP 14), you *may* consider whether there are humanitarian, compassionate or economic grounds for issuing a Minister's permit to allow the person to enter and remain in Canada notwithstanding the medical inadmissibility.

See OP 19 for the factors to consider before recommending a Minister's permit.

3.4 Criminal and security requirements

Independent applicants and dependants must be admissible to Canada under all sections of A19 relating to criminality and security concerns. Normally you will establish their admissibility through the applicant's police certificate and background reports and assessments. For more information on determining admissibility under criminal and security grounds, see IC 1, *Security and Criminal Screening of Immigrants* and OP 17.

3.4.1 What to do in criminal or security cases: extending favourable consideration

Before you refuse an independent applicant on criminal or security grounds, you **may** consider whether there are humanitarian, compassionate or economic grounds for issuing a Minister's Permit to allow the person to enter and remain in Canada notwithstanding the criminal inadmissibility.

See OP 19 for the factors to consider before recommending a Minister's permit.

a) Security certificates

A40.1(1) certificates are appropriate when you use information in unreleasable security or criminal intelligence reports to determine inadmissibility. The information must reliably indicate the applicant falls into A19(1)(c.1)(ii), (c.2), (d), (e), (f), (g), (j), (k) or (l), or A19(2)(a.1)(ii).

Before refusing this type of case, contact Case Management for guidance.

b) Minister's opinions

You must seek the Minister's opinion of danger to the public if applicants have caused, or might reasonably be expected to cause, death or serious physical or psychological harm to persons or significant damage to property. Their offences involve violence, weapons, narcotics trafficking, or sexual abuse.

You must consider, more than just the fact of the offence(s). You must also analyze applicants' past behaviour, the nature and circumstances of the offence, as well as any sentence.

By their past behaviour recidivists make themselves good candidates for a Minister's opinion.

Details of sentences are especially useful. If courts impose fines with little or no time in prison, your expectation of danger to the public might be lower. Keep in mind though, sometimes convictions and sentences are the result of plea bargaining. You may have to give more weight to the nature and circumstances of the actual offence than the sentence, to form an accurate view of the danger to the public.

To get an opinion, you must make a recommendation to the Director General, Case Management Branch.

Before submitting a recommendation, you must inform the applicant in writing, of the reasons and effect. Applicants have thirty days from the day they receive the letter, to provide information. They may also provide economic and cultural arguments. You review and comment, if appropriate, before appending them to your recommendation.

If Case Management Branch approves the recommendation, you provide the applicant with a copy of the decision.

After going through these steps, where appropriate you can still refuse such applications.

3.5 Ineligible dependants

Ineligible dependants claim to be dependants of the applicant, but cannot satisfy you they are dependants.

Examples: dependants over 19 who cannot satisfy you that they are full–time students

Where a dependant is ineligible, issue immigrant visas to the applicant and eligible dependants. Do not issue visas to the ineligible person.

3.5.1 What to do if a dependant is ineligible?

If you determine that dependants are ineligible:

- tell principal applicants you cannot issue visas to the ineligible dependants because you are not satisfied they are dependants as defined in R2(1);
- give the applicants a deadline for providing additional information about the ineligible dependants;
- if by the deadline you still think the dependants are ineligible, send a letter explaining why you cannot give them visas with the visas for the eligible members of the family.

3.6 Passport requirements

See OP 15 for details about this requirement.

Only refugees are exempt from the passport requirement [R14(2)].

Program managers can exempt applicants from this requirement for humanitarian and compassionate grounds (R2.1). This option is practical only for persons who do not have to board an airplane to travel to Canada.

Diplomatic, official and similar passports are not acceptable for immigration purposes. PRC Public Affairs passports are also not recognized for immigration purposes.

Item 3 of Schedule VII specifies unacceptable passports, identity or travel documents [R14(5)]. They include documents issued by the All Palestine Government. Do not confuse these documents with those issued by the Palestinian Authority. The latter are valid for immigration purposes under item 2 of Schedule VII.

3.7 Interviews

R22.1(1) provides officers with the right to call any applicant and/or any of the applicant's dependants (whether they plan to accompany or not) for an interview provided the interview is for the purpose of assessing the application.

Applicants who meet one of the following criteria would not normally be interviewed:

a) if the information provided on the application form and accompanying documents clearly shows that an applicant will accumulate sufficient units of assessment to meet the pass mark for their particular occupational group;

b) if applicants fail to accumulate sufficient units of assessment and have no chance of accumulating sufficient additional units during an interview.

All other cases should be **considered** for interview.

Interviews should never be waived if there is doubt concerning the validity or accuracy of facts or information that are germane to the acceptance of the case.

In addition, R22.1(3) gives the interviewing officer considerable latitude in selecting the venue for the interview which may be in the office or "any other appropriate location".

3.8 Procedural fairness

Please see OP 1 for details.

4. SELECTION CRITERIA

4.1 Factors in Selection

The 9 factors in selection are set out in Schedule I of the Regulations. The values awarded for each of the selection criteria will be "locked in" or protected. The applicant will receive the value current on the day the application was submitted and the fees paid. This will occur regardless of the day on which paper screening or interview takes place. Should a subsequent change in the values occur which would be to the applicant's advantage, the applicant may receive the benefit of the additional units of assessment. The applicant will not suffer from any decrease in the value of any of the selection criteria. See OP 1, section 3.4 for more information on lock–in.

The following provides a basis for understanding and applying the selection criteria.

4.1.1 Education

Applicants can be awarded a maximum of 16 units for education as follows;

a) no units if secondary school has not been completed;

b) five (5) units if secondary school has been completed but the completed program does not normally provide entrance to university, and the diploma does not include trade or occupational certification (in the country of study);

c) ten (10) units if secondary school has been completed and the completed program normally provides entry to university;

d) ten (10) units if secondary school has been completed and the completed program includes trade or occupational certification (in country of study);

e) ten (10) units if the applicant has completed a post–secondary program which requires, as an admission standard, secondary schooling at the level described in (b) and (d). The program must have included at least one year full–time classroom study;

f) thirteen (13) units if the applicant has completed a post– secondary program which requires, as an admission standard, secondary schooling at the level required for entry to university. The program must have included at least one year of full–time classroom study;

g) Fifteen (15) units if the applicant has completed a first level university degree which requires at least three years of full–time study;

h) Sixteen (16) units if the applicant has completed a second or third level university degree;

i) no units if the degree diploma or certificate was obtained at an institution or in a field of study designated as not recognized (no institutions have been so designated at this time).

Assessment

a) Points are based on the completion of a program of study, meaning that a diploma has been obtained. There is no equivalency system. Programs of study are to be assessed on the basis of the standards which exist in the country of study.

b) Non–university post secondary programs must include at least one year full–time classroom study. The purpose of this is to ensure that the applicants have acquired numeracy and literacy skills beyond high school level. The one year full–time classroom study does not have to be completed in one year. It may be taken over a longer period of time.

c) Applicants will be awarded units for their highest level of study and for only one degree. For example, individuals with two degrees (eg. two B.A.'s) would only be awarded points for one. The fact that a person obtained many degrees could be recognized, if appropriate, in assessing the candidate's personal suitability.

d) Points for "professional" degrees should be awarded on the basis of the actual degree, as it is recognized in the country – not on the basis of what an applicant may have acquired prior to entry to the professional program. For example, in the Canadian setting, a Bachelor or Law degree is a first level degree. A Medical Doctor degree would be considered a third level degree because it is a doctorate program.

e) If you are unable to assess conclusively the educational credentials of an applicant who attended school outside the area of the visa office's jurisdiction and if the assessment of educational units is a determining factor in the selection of the applicant, the educational qualifications should be referred to the appropriate visa office for guidance.

f) Visa offices must ensure that the certificates/diplomas that are presented are genuine and are issued in accordance with the educational standards and practices of the country in which the issuing institution operates.

The regulations provide the authority to designate institutions which are known to operate illegitimately or which issue bogus documents. At this time, no institutions have been designated.

The regulations also provide the authority to designate fields of study which will not be recognized for awarding education points. This will ensure that only persons with fields of study which are relevant to the Canadian labour market are awarded points. At this time no fields of study have been designated.

4.1.2 Employment training factor (ETF)

This factor is used to assign a unit equivalent to the amount of formal education and training required for average performance in the occupation in which an applicant is assessed. Once you, have determined that an applicant is qualified in the occupation in which he or she is assessed, ascertains the Employment Training Indicator (ETI) value of that occupation in the National Occupation Classification (NOC) Counselling Handbook and converts that numerical value to the appropriate number of units of assessment under the ETF, to the maximum of 18, according to the following grid:

ETI	ETF
1	1
2	2
3	5
4	7
5	15

ETI	ETF
6	15
7	17
8	18

4.1.3 Experience

A maximum of 8 units is available under this factor. Zero units of assessment are a bar to further processing unless the applicant has arranged employment approved by the National Employment Service in Canada and has a written statement from the proposed employer verifying that he or she is willing to employ an inexperienced person in this position. You must be satisfied that the person can perform the work required without experience [see R11(1)(a)]. In general the higher the ETF, the more points may be allotted for experience. The rationale for this is that in complex occupations more experience makes an employee more valuable. In less complex occupations this is not the case. Accordingly, more points are awarded to a cabinet maker with 2 years experience than a general labourer with 15 years experience.

Experience Points may be awarded according to the following grid:

Years of Experience				
ETF	1	2	3	4
1–2	2	2	2	2
5–7	2	4	4	4
15	2	4	6	6
17–18	2	4	6	8

4.1.4 Occupation factor

"The General Occupations List" specifies a variety of occupations each with an assigned unit of assessment value that ranges between a minimum of 1 and a maximum of 10 units. It is important to note that point values on the list are not directly tied to labour market demand for that specified occupation. Instead, they reflect the general employability in Canada of someone with those occupational qualifications. Units given for an occupation will be those assigned to the occupation on the day the application is received, not the day it is paper screened.

The full 10 units available under the "Occupation Factor" are awarded if an applicant has a validated offer of employment in an occupation to which the NOC assigns an ETI number equal to or greater than five (5). (Note that the NOC figure five (5) converts to (15) units of assessment under the "Education Training Factor").

The full 10 units available under the "Occupation Factor" are also awarded to any applicant whose occupation has been designated by the Minister (see section 4.1.5).

If a candidate is awarded no units under the occupation factor, i.e. the candidate's occupation is not on "The General Occupations List", or has not been designated by the Minister or does not have a validated offer of employment, further processing is barred.

4.1.5 Arranged employment or designated occupation factor

Ten Units are awarded under the "Arranged Employment or Designated Occupation Factor" to an applicant who has arranged employment in Canada which, in your opinion, based on information provided by Human Resource Development Canada, meets conditions set out under this factor in Schedule I. The candidate with arranged employment in an occupation with NOC ETI equal to or greater than five (5) and who holds an employment validation is also awarded an automatic ten units under the "Occupation Factor" (see section 4.1.4).

Units will not be awarded under the "Arranged Employment or Designated Occupation" factor to an applicant whose "arranged employment" consists essentially of a training position which will, by its very nature, terminate at some specific time, regardless of whether this would be six months or six years. Examples of such employment would include medical interns and residents, applicants for articling positions in the chartered accountant or legal fields, graduate assistantships at universities, etc. Self–employed, entrepreneurs, and investors are not assessed in this area.

Ten units are awarded under the "Arranged Employment or Designated Occupation" factor to an applicant assessed in an occupation which has been designated by the Minister in consultation with provincial authorities. Designated occupations are those for which there are current labour market shortages and are therefore specific to individual provinces. An applicant may be assessed within one of these occupations only if this person is also destined to the province which has placed the occupation on the "Designated Occupations List". The province may also require candidates to satisfy an appropriate occupational organization or association that their qualifications/credentials will permit them to work within the occupation. Each province establishes the number of qualified immigrants it requires in each occupation it designates. Once all spaces allocated to an individual occupation by the province have been filled, this occupation will be removed from the province's list of designated occupations.

There are no occupations on the Designated Occupations List at this time.

4.1.6 Demographic Factor

This value is set by the Minister at a value from 0 to 10 points and will be awarded to all applicants. From time to time, the points allotted to the demographic control factor, may be adjusted upwards or downwards, to increase or decrease the number of applicants who would otherwise meet the selection requirements. CICs and posts abroad will be advised as changes occur. The value of the points awarded for demographic factor will be that in effect on the day the application was received, not the day it was paper screened. In the event the value of points is greater on the day of paper screening, applicants will be given the benefit of the higher point value.

4.1.7 Age

An applicant who is at least 21 and not more than 44 years of age is awarded 10 units of assessment under this factor. Two units are subtracted to a maximum of 10 units for each full year the applicant is less than 21 or over the age of 44.

4.1.8 Knowledge of English and French Languages

A maximum of 15 units of assessment may be awarded for ability to communicate in English and French.

a) Provisions

The maximum number of units is fifteen (15). They are based on the applicant's ability to speak, read and write:

i) First Official Language

- Speak, read or write fluently, three (3) credits each;
- Speak, read or write well, two (2) credits each;
- Speak, read or write with difficulty, no credits.

ii) Second Official Language

- Speak, read or write fluently, two (2) credits each;
- Speak, read or write well, one (1) credit each;
- Speak, read or write with difficulty, no credits.

b) Units of Assessment

The number of credits that were assessed under this scale must first be added together (English and French) and then converted to units as follows;

- Zero or one credit, no units;
- Two to five (2–5) credits, two (2) units;
- From six (6) to fifteen (15) credits, the equivalent number of units will be awarded. Maximum 15 units.

Because the IMM 1343 is designed to record separate scores for English and French, officers will split the total units (following conversion from credits) into English and French units. Where the total credits add to five or less, record the total number for the first language and zero for the second language. In all other cases, the credits assessed for each language will equal the units to be recorded for each language. Officers should keep notes on file to reflect the credits assessed for the applicant.

c) Assessment

Although language is an important consideration in determining the immigrants' potential to self–establish successfully, a deficiency in this area will not automatically disqualify applicants; however, this requirement should ensure that most successful applicants have at least a minimum language ability.

It must be noted that factor 8 of Schedule I allows applicants to state whether their first official language is English or French, therefore, language ability shall be evaluated accordingly.

It is always your responsibility to ensure that immigrants meet all requirements. With respect to the language factor, you shall assess whether the statement on the application appears to reflect the person's ability to speak, read or write in Canada's official languages.

The Language Assessment Guide – APPENDIX A has been developed in order to maintain a level of consistency in assessments made by you. The guidelines are not to be regarded as binding instructions.

While language ability would normally have been assessed during an interview, other factors may be considered, including: study or work experience in an English or French speaking country; work experience with an English or French organization; and evidence of language courses. The potential to function in the intended occupation should be part of the assessment. A person can be considered fluent in a language even though it is not their mother tongue.

4.1.9 Personal suitability

Determination of the number of units of assessment to be awarded an applicant, to a maximum of 10, rests on the judgement of the interviewing officer. The qualities of adaptability, motivation, initiative, resourcefulness, and such other attributes, admirable or otherwise, as the applicant may display, are characteristics on which the officer may base his determination.

4.1.10 Pass marks – Bonus points

The regulations state:

Independent applications require a pass mark of 70 units of assessment.

Applicants who are self–employed require 70 units of assessment which includes a 30 point bonus if they meet the definition.

Assisted relatives need a pass mark of 65 units of assessment.

4.2 Positive discretion

Should an applicant fail to accumulate sufficient units of assessment to pass, the officer may feel that the units of assessment do not accurately reflect the applicant's ability to successfully settle in Canada. The officer may still pass the applicant "on discretion" provided that the opinion is concurred in, in writing, by a senior officer. Discretion may be used to overcome insufficient units of assessment, a lack of employment experience in a specific occupational group or the fact that the applicant's occupational skills are not among those selected as open for immigration. It may not be used to overcome inadmissibilities. It may not be used in order to affect a positive result for humanitarian or compassionate reasons.

4.3 Negative discretion

On February 23, 1995, the Supreme Court of Canada (SCC) rendered its decision in the (CHEN) Chang–Jie case providing an interpretation of the term "becoming successfully established in Canada" in R11(3). The SCC decision restored the interpretation of the Federal Court, Trial Division and the dissent in the Federal Court of Appeal decision. The Chen decision concludes definitively that the phrase "successfully established" in section 11(3) of the Regulations must be limited to "economic considerations".

By unanimous decision the SCC allowed the appeal and agreed with the reasoning in the decision of the Federal Court, Trial Division and restored the order of Mr. Justice Strayer quashing the decision of the visa office and sending the application back to the visa office for a fresh determination.

The essence of Mr. Justice Strayer's decision in the Trial Division of the Federal Court is found in the following: "While it is nowhere clearly spelled out, the selection standards authorized for use by paragraph A114(1)(a) and the actual factors identified in Schedule 1 of the Regulations, appear to be essentially related to the ability of the immigrant to make a living in Canada or to be economically sustained other than by the state ... The factor of "personal suitability" while seemingly ambiguous, according to the criteria set out in Column 2 authorizes the according of units "to reflect the personal suitability of the person and his dependants to become successfully

established in Canada based on the person's adaptability, motivation, initiative, resourcefulness and other similar qualities". These enumerated criteria of personal suitablility, while not/not wholly irrelevant to social success, seem primarily related to the ability to support oneself. The term "and other similar qualities" should, I think, be read ejusdem generis with the enumerated criteria which precede it.

Therefore, the reasons that you have to believe that an immigrant cannot become successfully established must be defined in the economic sense. The reasons should not include factors such as the immigrant will not be a good neighbour or that an immigrant is a bad or immoral person based on his past conduct. Section 19 of the *Immigration Act* is of course available to exclude persons in carefully specified situations on the basis of their past conduct if this conduct includes acts and/or omissions of a criminal nature or a potential for criminality or sedition. There may be occasions where a person's characteristics will demonstrate that the person will be unlikely to establish in the economic sense. It is important that you make this link between an economic immigrant's characteristics and for example his or her ability to find and hold employment.

The court observed that it is conceivable that discretionary power under R11(3) could properly be used where an immigrant was so lacking in one of the factors listed in Column 1 that a zero rating would not adequately reflect the negative impact of that deficiency of his ability to become successfully established. This point was not specifically argued.

Further it is recognized that the obligation to reduce personal suitability to zero as a precondition to the use of negative discretion would be extremely restrictive. Therefore, in certain instances, you may find that the use of negative discretion is warranted although personal suitability has not been reduced to zero. These cases may give rise to litigation on this very point and cases must be carefully documented to explain why you have not reduced the personal suitability assessment to zero before resorting to negative discretion. It is expected however, that cases recommended for the use of negative discretion will always reflect low personal suitability assessment.

An inteview is not needed as long as the requirement of procedural fairness has been meet. In other words, you can refuse using negative discretion, if the decision is made in a procedurally fair manner. The visa officer who made the decision should under normal circumstances be the person who notifies the person of the decision, however, the refusal letter can be completed by a second officer. In these cases the refusal letter should not state "I refused" but "your application was refused by the deciding officer because..."

4.4 Insufficient Units of Assessment

When an applicant fails to accumulate sufficient units of assessment to pass, the application should, as a matter of routine, be reviewed to determine that there are no other grounds for entry such as extenuating humanitarian or compassionate factors. If it is determined that there are no other grounds for entry the applicant should be refused in writing. Officers should ensure that refusal letters fully inform the applicant why the application is refused as well as advising the categories or circumstances under which the application was considered. A summary of the points awarded to the applicant must also be provided.

5. COST RECOVERY

The cost recovery fee is payable at the time the application is made. The cost recovery fee is not refundable. Effective April 20, 1997, payment of the Right of Landing Fee (ROLF) is required before issuance of the immigrant visa for applicants overseas or before landing for applicants in Canada. However, applicants will be offered the option, and encouraged, to make the appropriate ROLF payment up–front with their application, or after all statutory requirements have been met. Each contact with the applicant should include a reminder that the ROLF is required, and that the visa will not be issued until payment is received and that early payment of the ROLF will avoid delays in the processing of the application. Refer to the IR manual for the cost recovery fee schedule and information on the ROLF.

The cost recovery fee and the ROLF must only be charged for persons who intend to immigrate to Canada. Non–accompanying dependants do not pay these fees even though they must undergo statutory processing. Regarding cost recovery, we are aware of the apparent contradiction between this result and the concept of payment for process rather than for product. We recognize that the work involved in examining non–accompanying dependants. The rationale is found in R3(3) of the *Immigration Act Fees Regulations*, which prescribes a fee to be paid by the applicant at the time he/she makes an application for landing and "in respect of each dependant, for the processing of an application for landing". The Act defines landing as "lawful permission to establish residence in Canada". If the dependants are not seeking permanent resident status they are in fact not making an application for landing, and are therefore fee exempt.

Successful applicants who decide not to use their visas must return the visas to the visa office in order to obtain a ROLF refund. Unsuccessful applicants, who have paid ROLF prior to rendering of decision to refuse, should be informed as part of the refusal letter that they are entitled to a ROLF refund. The visa office that finalized a case is responsible for processing any related ROLF refund.

6. VISA ISSUANCE AND LANDING

6.1 Issuance of a Visa

Once it has been determined that an applicant meets all the selection criteria and background and medical(s) remain valid for all dependant members of the family, visas may be issued to an applicant and all accompanying dependants. If the applicant is destined to the province of Québec each member of the family must be covered by a valid Certificat de Sélection (CSQ). In most cases the visa(s) will have the same validity as that of the medical exam. It should be noted that this date cannot be extended.

6.2 Examining immigrants

(SECTIONS 6.2 TO 6.3.12 DEAL WITH THE PROCESS AT THE PORT OF ENTRY AND HAVE BEEN PLACED HERE ONLY FOR YOUR INFORMATION.)

The arrival of an immigrant with an immigrant visa is evidence that, when the visa was issued, the visa officer was satisfied that the immigrant met Canada's admission requirements as outlined in the Act and its regulations. Should a person claiming to be an immigrant arrive without having obtained a visa before that person appears at a POE, that person would be reportable under A19(2)(d) for A9(1) for being an immigrant without a visa.

During the course of the examination of an immigrant, an immigration officer is to be satisfied that:

- the immigrant does not fall within the inadmissible classes described in A19(1) and A19(2)
- the immigrant's admissibility has not been affected by a change in any of the facts relevant to the issuance of the immigrant visa, or in the marital status of the person concerned [R12(a) and R12(b)], and
- the immigrant and the immigrant's dependants (whether accompanying dependants or not) still meet the requirements of the class of immigrants under which the visa was issued [R12(c) and 12(d)].

If you establish that the immigrant is inadmissible, or that a change in the relevant facts is evident, you must write a report under A20(1).

Subsections R12(a) and R12(b) require the immigrant to inform you:

- if his or her marital status has changed since the visa was issued [R12(a)], and
- of any other facts relevant to the issuance of the visa that have changed since the visa was issued, or that the immigrant failed to disclose at the time the visa was issued [R12(b)].

6.3 The landing process

Landing an immigrant is a two–stage process:

- the first stage is to verify the information on the Immigrant Visa and Record of Landing (IMM 1000), which the visa officer prepared. The immigration officer at the port of entry should review the form with the person concerned to ensure that the information he or she initially provided has not changed
- the second stage is to complete the IMM 1000 form, which requires that certain information be completed when the immigrant presents himself or herself to the immigration officer at the port of entry.

6.3.1 Verifying the IMM1000

To verify the information on the IMM 1000, you should:

- query the Field Operations Support System (FOSS). Immigrants listed in the Computer Assisted Immigration Processing System (CAIPS) data base may be found in FOSS. Make sure that there is no information recorded in FOSS that would alter your decision to land the immigrant. For example, there may be an outstanding warrant for the person's arrest or the person may have been previously deported from Canada. If you find any adverse information, you should review it carefully to determine the effect it might have on your ability to complete the landing, or whether it may have altered the visa officer's decision to issue the visa. When necessary, you should seek the advice of the visa officer on whether this information would have altered the decision to issue a visa. You should defer landing while you seek the advice of the visa officer. For dependants arriving before the head of the family, see section 6.3.9;
- confirm that the immigrant is travelling alone, or whether additional family members will arrive at a later date. If you confirm that there are members of the family who are immigrating to Canada who are not present, under certain circumstances you must not proceed to land the immigrant (see section 6.3.5 below), but you should complete the verification process;
- using the immigrant's passport and other identity documents, confirm that each name is correctly spelled, and that the family and first names are clearly identified;
- verify the date of birth with the immigrant's identity documents. Pay careful attention to typographical errors, such as a transposed day and month;
- check the information on sex and marital status. If there has been a change in marital status, see sections 6.3.3 and 6.3.4 below on amending the IMM1000;
- check whether the immigrant has presented his or her visa within its period of validity;
- verify that the passport number and validity date in box 11 of the IMM1000 are the same as the number and validity date on the travel document that the person presents to you with the IMM1000. All immigrants must be in possession of a valid passport, travel or identity document [R14(1)];
- confirm that the immigrant intends to establish permanent residence in Canada;
- ensure that a visa officer has signed the IMM1000;
- confirm that the applicant, has sufficient financial resources that he/she will be able to support him/herself and those persons dependant on him/her for care and support without the need for provincial social assistance benefits and that they do not come within the meaning of section A19(1)(b);
- if an applicant does not have sufficient means to be self–supporting or does not otherwise have adequate settlement arrangements, you should seek the advice of the visa officer on whether the information would have altered the decision to issue a visa. You should defer landing while you seek the advice of the visa officer and until such time as the

applicant can establish that funds are forthcoming to provide for the settlement needs of the applicant and the applicant's dependants. (see section 6.3.5 on deferments)

Before you grant landing, you must verify the information contained on the IMM1000 for all members of the family travelling together.

6.3.2 Completing the IMM 1000 form

You must complete the following items on the IMM 1000 form:

18 (*Have you ever been convicted...*): have the person initial the answer. If the person states that he or she has been convicted, and the IMM1000 is not notated with "IMM1444 approved", you must determine whether the conviction would make the person reportable under A19. If the person is reportable, you must write the report and deal with it before you grant the person landing.

40 (*I certify that...*): have the person sign the statement and enter the date on which the document is signed.

41 (*Carrier/Flight no.*): if the person travelled to Canada by ship, enter the name of the ship and of the shipping company; if by air, give the abbreviation of the airline and the flight number; otherwise, enter *By land*.

42 (*Money in possession*): enter the amount of funds in Canadian dollars that the person has in his or her possession on arrival, or enter *Nil*, if applicable. If possible, you should verify this amount. Once you have verified the amount, write your initials beside the box as confirmation that you have verified the amount. Independent immigrants should have sufficient resources so that they will not require social assistance benefits as per the guidelines in section 7.2.

43 (*Conditions of landing imposed*): see section 6.3.7 below.

44 (*I understand these conditions*): If you imposed conditions, the person must sign the statement.

45 (*Landed on*): Enter the date on which you granted landing to the person. **You should ensure that the date of landing appears clearly on all copies of the IMM1000 especially the holder's copy.**

46 (*At*): enter the name of your POE and its four–digit responsibility code. You should ensure that the POE name and code appears clearly on all copies of the IMM1000 especially the holder's copy.

47 (*Signature of Immigration Officer*): You must sign here.

6.3.3 Amending the IMM 1000

You should correct any typographical error by putting an asterisk (*) beside the item you are changing, and record the correction in the *Remarks* box. If you make more than one change, number each one. Any items that you change must not have a bearing on the person's admissibility. You must enter the remarks into FOSS.

The name of the person concerned and other biographical detail on the visa should correspond to the details in the passport and travel document.

Some biographical data may affect the landing of a person, such as age and marital status. In all cases where you detect a discrepancy in biographical data, you should defer landing, contact the visa officer, and request the visa officer to determine if the discrepancy would have affected the decision to

issue a visa. If the visa would have been issued, amend the IMM1000 as described above in this section. If the visa would have been refused, you should request the visa officer to supply a declaration to that effect, and write an appropriate A20 report.

Remember that a person who signs the IMM1000 is signing that all the information on it is correct. You should remind the person of the importance that all the information on the IMM1000 be correct.

6.3.4 Changes in marital status

An immigrant who has been issued a visa as a single person must advise you if his or her marital status has changed since the visa was issued [R12(a)].

A report under A19(2)(d) for R12(c) is not necessary if the non–declaration of the marriage to the visa office does not affect the landing of the person, as in the following cases:

- a Convention refugee or a person described in the Designated Class Regulations, in which case you should land the immigrant and counsel the immigrant on how to sponsor the spouse
- a fiancé or fiancée who marries the sponsor after the visa is issued, but before landing. This change in circumstance is not material to admissibility.

In all cases, you must assume the truthfulness of voluntary statements and proceed as though the immigrant were married, whether or not the person has documentary proof of the marriage. You must either allow the immigrant to come into Canada for a further examination under A14(2)(b) to allow time to consult the visa office or allow time to obtain additional proof (see section 6.3 below), or write a report under A19(2)(d) for R12(c).

There may be situations when you do not wish to proceed with enforcement action. If the spouse is accompanying the immigrant, you may wish to allow the applicant to come into Canada for further examination under A14(2)(b) to investigate further. After your investigation, if you intend to proceed with enforcement action you must write the appropriate A20(1) report and forward it to a senior immigration officer (SIO). Write the appropriate report on the accompanying spouse as well.

If the spouse is not accompanying the immigrant, you may wish to allow the applicant to come into Canada for further examination under A14(2)(b), until such time as the visa office can interview the spouse to determine if he or she meets the requirements for issuing a visa and is issued a visa.

The procedure for landing the immigrant and the spouse will vary from case to case, depending on the immigrant's and the spouse's particular circumstances. You should provide a full case summary to accompany the file, so that the receiving inland immigration office can follow up appropriately.

You should bear in mind that the immigrant's medical examination, security check and travel document may need to be updated while the spouse is being examined and before landing can take place.

6.3.5 Persons allowed forward for further examination

If you establish that the immigrant should be allowed to come into Canada on condition that he or she report for further examination by an IO [R14(2)(b)], issue the person with a Notice of Adjournment or Deferral of Examination Under the *Immigration Act* .

It is important that you retain a copy of the notice of further examination on a local file. If you tell the person to report to an office other than the issuing office, you should send a copy of the notice and the appropriate notes to that immigration office. Should the person not report as required, the notice will serve as evidence that the person has eluded examination under the Act. When appropriate, an interpreter should translate the form orally to the person, and the interpreter should sign the form.

In the notice you must clearly document the time and place for the further examination.

6.3.6 Requirement of a CSQ for landing a person who wishes to settle in Quebec

The Canada–Quebec Accord stipulates in section 12(c) that "Canada shall not admit any immigrant into Quebec who does not meet Quebec's selection criteria."

This principle of the Canada–Quebec Accord is reflected in the Act, under section 6(6) for independent immigrants. In brief, this section stipulates that "the immigrant and all dependants, if any, may be granted landing only if ...c) the province has determined that the immigrant meets, or the immigrant and the dependants meet, as the case may be ... the selection standards established by the laws of the province ..."

The examining officer should ask an "independent" immigrant whose final destination is outside Quebec for an explanation if the itinerary does not seem logical. For example, an immigrant who has obtained his or her immigrant visa in Detroit or Hong Kong and whose destination is west of Quebec would not normally follow a route through Mirabel, Lacolle or Cornwall. In such situations, the examining officer should ask the applicant for an explanation. Sometimes the examining officer may thus discover that, contrary to what is indicated in the immigrant's visa, the immigrant intends to settle in Quebec. The examining officer may also come across situations where immigrants, without being asked, spontaneously declare their intention to settle in Quebec.

When an independent immigrant who intend to settle in Quebec presents an immigrant visa indicating a destination other than Quebec, there is a strong presumption that the person in question does not possess a CSQ.

If such is the case, the examining officer, after having explained the situation to the immigrant, shall defer the examination under A13(1)a), for a three–week period to allow the immigrant to obtain a CSQ. The immigrant and his or her dependants shall be referred for selection purposes to Michel Vallée, or to Marie–Claude De L'Étoile in his absence, Division des Candidats à l'Immigration, Direction des Services d'Immigration, MRCI, 415 St Roch, Tel.: (514)864–9279. If MRCI provides reception services at the port of entry, the applicant should also be advised to go to these reception services to obtain a Certificat de Sélection du Québec application form.

If the client submits a CSQ form promptly, the MRCI has stated that it will make a decision within the three–week deferral period.

If the applicant is in possession of a CSQ when the examination resumes, the immigration officer may grant the applicant landing, unless prevented by other reasons. If the applicant does not submit a CSQ, because he or she failed to apply for or was refused a CSQ by MRCI, the examination shall be

deferred again, under A14(2)b) this time, and the immigrant asked to proceed to his or her initial destination to be granted landing. Full details of the situation shall be entered in FOSS.

In cases where, despite the appropriate advice they have been given, applicants insist upon their intention to settle in Quebec, in spite of a refusal by MRCI to grant a CSQ, or the applicant's refusal to submit an application for a CSQ, their cases shall be written up in a report under A20, A19(2)(d), A6(6)c)i) or ii) and R12(b) and a direction that an inquiry be held shall be issued.

6.3.7 Special situation of immigrants studying in Quebec

Students attending university in Quebec are obtaining immigrant visas to settle in a region other than Quebec. They go to a port of entry to be granted landing before their studies in Quebec have been completed, saying that they intend to take up residence somewhere other than Quebec once they have completed their studies in Quebec. It is therefore obvious that they initially intend to establish themselves in Quebec.

These students may be divided into two categories: those whose immigrant visa expires before the end of their studies in Quebec, and those whose visa will expire after their studies have been completed.

Students whose immigrant visa expires before the end of their studies in Quebec

These students initially intend to establish themselves in Quebec because they have to complete their studies. They therefore cannot legally be granted landing unless they have a CSQ. The procedure described in Point 3 must be followed in this type of situation. Obviously, all relevant information describing the situation must be entered to FOSS.

If the student does not obtain a CSQ from the MRCI, landing cannot be granted and an inquiry must be ordered, unless the student can provide evidence that his studies in Quebec have been abandoned and he has taken up residence in another region.

Students whose immigrant visa will expire after completion of their studies in Quebec

In cases of this type, if the student claims that he intends to take up residence in another region once his studies have been completed, the immigration officer can authorize him to enter or remain in Canada temporarily to continue his studies, by the usual manner. With regard to the request for landing, the immigration officer should advise him to wait until he has completed his studies to use his visa. He should then travel to his point of destination, establish himself there and leave Canada to request landing at a port of entry, presenting evidence that he is already settled at his destination (lease, proof of employment, etc.). Obviously, all relevant information to describe the situation must be entered to FOSS.

If the student refuses to follow this advice and continues to request landing without awaiting the end of his studies, the procedure described in Point 3 must be followed. If the student does not obtain a CSQ from the MRCI, landing may not be granted and an inquiry must be ordered, unless the student provides proof that his studies in Quebec have been abandoned and he has taken up residence in another region.

6.3.8 Documenting terms and conditions on landing

The purpose of imposing terms and conditions on an immigrant at a POE at the time of landing is to ensure that the immigrant complies with the admission requirements. A visa officer can recommend terms and conditions (box 37 on form IMM 1000), but only the IO [A14(5)], an SIO [A23(1.1)] or an adjudicator [A32(3.1)] who grants landing can impose prescribed terms and conditions. Section R23 prescribes the terms and conditions that may be imposed.

When you are imposing terms and conditions of admission, it is important to use the precise wording of the *Immigration Regulations* on the IMM 1000 form.

If a visa officer has written the suggested terms and conditions in box 43, the IO, the SIO or the adjudicator has the discretion to accept the suggested terms and conditions, to strike out or change those which the IO, the SIO or the adjudicator does not wish to impose, and to add any others deemed appropriate and contained in R23. The IO, the SIO or the adjudicator making the changes must initial each change to terms and conditions imposed, struck out or added, and explain the terms and conditions to the person concerned.

6.3.9 Optional terms and conditions

The following terms and conditions may be imposed on any immigrant:

code 32: Must report for medical examination, surveillance or treatment [R23(1)(a)]

code 33: Must report for medical examination, surveillance or treatment, and at specified times and places, and provide proof of compliance [R23(1)(a) and R23(1)(c)].

When imposing these terms and conditions, you must complete a Medical Surveillance Undertaking (form IMM 535). Codes 32, 33, 34, 35, 37, 39 and 46 recommended in box 37 on the IMM 1000 will indicate a need for this form to be completed. In most circumstances the immigrant will have the IMM 535 form with him or her. You must:

- confirm the destination address in item 6, ensuring that it is complete;
- complete item 10 on all copies;
- stamp, date and sign all copies in sections 11 and 12 of the form;
- return copy 1 to the person concerned;
- mail copies 2 and 3 to the Medical Services address shown at the bottom of copies 2 and 3. If no address is available, you should counsel the immigrant concerning the terms and conditions imposed and the need to contact the immigration office closest to the destination, with an address, as soon as one has been established. You should mail copies 3 and 4 to the appropriate immigration office, which will forward copy 3 to Medical Services once an address has been established;
- when appropriate, provide the immigrant with the address of the closest immigration office.

6.3.10 Dependants arriving before the principal applicant

Occasionally you will encounter an accompanying dependant who has arrived before the principal applicant and is seeking landing. The *Immigration Regulations* require the principal applicant to meet the

requirements of the Act and its regulations, including the requirements for issuing the visa, for landing on arrival at the POE (R12). The accompanyi dependant's meeting those requirements is usually incumbent on the principal applicant's being admissible at the POE. This also holds true for the principal applicant arriving before his or her dependants.

If you encounter this situation, you should obtain the following information from the dependant or principal applicant:

- why the dependant or principal applicant is preceding the rest of the family (for example, to seek accommodation or employment, lack of a seat on the aircraft carrying the principal applicant, and so forth);
- when the rest of the family is due to arrive, and
- the person's means of support.

You must not land the dependant. If the person has a valid immigrant visa and you are satisfied that the rest of the family intends to come to Canada, you may allow the dependant to come into Canada on the condition that he or she presents himself or herself for further examination at a specific time and place [A14(2)(b)]. Allow the person forward with a notice of further examination to report to an inland immigration office closest to the destination of the person concerned, so that an IO can confirm the landing. Before you allow the dependant to come into Canada for further examination, you should be satisfied that the person is admissible in all respects except for the examination of the rest of the family.

If a person has come forward before the rest of the family, the possible expiry of the visa is not a factor provided that the person has presented the visa within its period of validity.

You should send full details of the case to the appropriate inland office, and to the POE at which you expect the rest of the family to arrive. Enter the information into FOSS by means of an *NCB watch for*; for example: *John Doe has arrived without his father. He will be living with his aunt in Oshawa until his parents arrive in two weeks. Landing has been deferred until that time.*

If you have reasonable grounds to believe that the rest of the family will not be coming to Canada, you must initiate enforcement action unless the person qualifies in his or her own right for landing.

A principal applicant may have decided to proceed to Canada in order to commence employment or to confirm that adequate settlement arrangements such as accommodation and educational facilities are available prior to the arrival of his or her dependants. You must confirm that the dependants meet the requirements of the Act or the regulations before landing the principal applicant. In most instances you can assume that persons listed on the principal applicant's immigrant visa meet the requirements of the Act and regulations, and you can proceed to land the principal applicant. If for any reason you feel the dependants may not have been examined, you may defer the landing pending confirmation from the visa office that they have been examined. For example the person may arrive on the expiry date of the visa. You should counsel the person concerning the importance of the rest of the family arriving prior to their immigrant visas expiring.

6.3.11 Persons with immigrant visas who do not intend to take up immediate physical residence in Canada

An immigrant visa–holder may appear at your POE seeking permanent resident status but, for valid reasons, does not intend to take up immediate physical residence. In such a case it may appear that the person's immediate plans are those of a visitor. You must bear in mind that the Act does not require the person to take up actual physical residence immediately on attaining the legal status of permanent resident. The question of establishing a physical residence and physically remaining and working in Canada should be subordinate to the person's intention.

6.3.12 Expired immigrant visas

A person who presents an expired immigrant visa – IMM 1000 is reportable under A19(2)(d) for A9(1). Furthermore, the Federal Court of Appeal has held that if a person is not in possession of a valid immigrant visa when he or she arrives at a POE, that person is not entitled to appeal to the Immigration Appeal Division or special consideration under A73(3) (*Minister of Employment and Immigration v. Ireland Pizzaro DiDecaro*, FCA, Doc. No. A–916–90, March 1, 1993).

6.3.13 Counselling at the POE

The examining officer should counsel each immigrant on the following matters:

- the terms and conditions of landing that you have imposed. This counselling should include how to comply with the terms and conditions, and how to apply for their removal.
- the deeming provision of A24(2).
- the procedure for applying for a returning resident permit, outlined in R26.
- to apply for a Social Insurance Number card. Give the immigrant the address of the nearest Human Resource Centre (HRC).
- the procedure for applying for provincial health coverage.

You should give the person a "Welcome to Canada" package, if available.

7. REFUSALS

7.1 Refusals

All persons whose applications for permanent residence in Canada are refused are inadmissible to Canada under one or more sub–sections of section A19. Refusal letters should reflect this. If a person's refusal is based on a section of the Regulations or some other section of the Act they should be advised that they are inadmissible per A19(2)(d) with reference to the Regulation or other section of the Act upon which their refusal is based.

7.2 Inability to Support – A19(1)(b)

The points system is designed to select immigrants who have the skills and abilities to contribute economically to Canada. These immigrants need to bring with them sufficient funds to support themselves and their dependants during their initial settlement. The points system does not provide for assessment of funds. This ability to fund initial settlement costs without recourse to social assistance is a question of admissibility, rather than a selection issue.

A visa officer should refuse under A19(1)(b) any immigrant who does not have this financial ability. An independent immigrant must budget for an initial period of expenses associated with moving and resettlement and not expect provincial social assistance programs to cover his needs. No immigrant can be admitted to Canada if on their arrival or shortly after it is reasonable to believe that they will be unwilling or unable to support themselves and their dependants and, as a result will have to depend on social assistance.

If the visa officer feels the applicant could be described in A19(1)(b), the applicant must be informed in a clear and transparent manner. The officer should always advise the applicant (preferably in writing) of the nature of the problem and give him or her a chance to address that problem. The applicant can submit any other evidence available which may demonstrate that he will not require social assistance. The officer may even wish to suggest a particular action to be taken that would convince him or her that the provisions of A19(1)(b) have been met. Should an applicant fail to convince the officer, the application should then be refused.

The visa officer must judge each case individually. Evidence of support from other parties that is submitted by the applicant must be assessed by the officer to determine if he or she is satisfied that A19(1)(b) no longer applies.

In deciding how much in the way of liquid assets(hard currency) an individual or family needs in order to meet initial settlement expenses, it is recommended that the applicant be in possession of $10,000 plus an additional C$2,000 for his/her spouse and each accompanying dependent. The actual amount a particular applicant will require will depend on many factors including the applicant's plans and preparations for immigrating. For example, the applicant may have arranged for accommodation with relatives in Canada which would appropriately reduce the amount of liquid funds required on arrival.

Flexibility in applying this requirement is encouraged. Settlement funds should not be looked at in isolation, but viewed in the context of other establishment indicators.

7.3 Humanitarian and compassionate considerations

It has been the practice over a number of years to refer to humanitarian and compassionate considerations when refusing applications. Since 1993, R2.1 allows Program Managers at Missions abroad to waive the selection criteria and accept cases for humanitarian and compassionate considerations. When humanitarian and compassionate considerations are considered, either because a visa officer chooses to do so at his or her own initiative or because the applicant specifically requests such consideration, then it is not the visa officer who is the decision maker, it is the Program Manager as per delegation instrument I–53.

The Program Manager does not have to conduct the actual interview for such a discretionary consideration, but the facts must be presented to him or her for a decision and the Program Manager should sign the refusal letter if the applicant is refused after being assessed for consideration under humanitarian and compassionate grounds. In all other cases where no humanitarian or compassionate considerations are readily apparent, it is recommended that no reference should be made to humanitarian or compassionate considerations or the lack thereof in the refusal letter as this can lead to situations where cases are allowed even though the refusal was made on completely valid selection grounds, because the evaluation of compassionate and humanitarian grounds was not considered by the delegated decision maker.

Every application submitted abroad cannot be evaluated in a comprehensive manner for the possible existence of humanitarian and compassionate grounds. In family class refusals where, in the event of an Appeal to the Immigration Appeal Division, a case summary is sent to the Appeals offices indicating whether or not humanitarian or compassionate considerations were found, it is not a requirement that these be examined in detail by the visa officer. The IAD will make its own determination on whether it finds such grounds applicable, unfettered by the visa officer's evaluation

7.4 Advising the Applicant

Applicants must always be advised of a negative decision and this should always be done in writing. The applicant should always be fully informed as to why he or she did not qualify. This principle should be followed even in cases that are closed due to a lack of response from the applicant. This will avoid the claim that a long inactive case should be considered under very old (and possibly advantageous) selection criteria simply because the file was closed without reasonable steps being taken to inform the applicant. Refusal letters should be both individually prepared and consistent for the type of refusal.

APPENDIX A
LANGUAGE ASSESSMENT GUIDE

Skill/Level	Speak	Read	Write
Fluently:	The applicant speaks and understands oral communication with approximately the same ease as that of an articulate native speaker	The applicant reads and understands texts of a general or job specific nature, including technical instructions.	The applicant writes proficiently in any context.
Well:	The applicant is able to comprehend and to communicate effectively on a range of general topics.	The applicant is able to comprehend almost all documents of a general, non–abstract nature	The applicant is able to write a basic report or summary relevant to their education, work, or social situation.
With Difficulty:	The applicant is able to communicate only in a very limited way.	The applicant is able to read and comprehend only short, familiar, or memorized text.	The applicant is able to write only a few learned words or sentences of a familiar nature.
Not at All:	The applicant is unable to understand and respond appropriately to spoken communication.	The applicant shows no understanding of the written word.	The applicant is unable to express any message in writing.

APPENDIX B
FAMILY BUSINESS APPLICANTS

1. FAMILY BUSINESSES – JOB OFFERS TO RELATIVES

Special guidelines exist for the processing of applications for permanent residence in Canada under the family business requirements. The objective of this guideline is to expand the opportunities for family reunification. It provides an opportunity for a Canadian citizen or permanent resident to bring to Canada a member of his/her family when it can be demonstrated that it is more sensible to employ a family member rather than using normal recruiting practices to find an employee.

The unique feature of family businesses is the trust that exists among family members which is not readily found among those not bound by family ties. Family members, in many cases are more committed to the success of the business venture or undertaking. The standard employment validation procedures do not take into account this unique aspect of trust.

Applicants who meet the family business criteria will be awarded units of assessment as if they had an approved offer of employment. That is they will receive 10 units of assessment under the arranged employment selection criteria.

2. FAMILY BUSINESS REQUIREMENTS

Offers of employment to relatives destined to Canadian family businesses will be considered to have met the consultative requirements set out in factor 5 of Schedule 1 to the *Immigration Regulations* provided they have been assessed under the following criteria:

a) the relationship of the prospective immigrant to the proprietor or operator of the business in Canada must be as described in the assisted relative definitions in the *Immigration Regulations*, although at the option of the immigrant, the spouse may be regarded and assessed as the principal person to be employed in the family business and on whose merits admissibility may be determined;

b) the job offer made by the business is bona fide and offers reasonable prospects of continuity;

c) wages and working conditions are normal for the occupation in the area where the family business is located;

d) the business must have been in a viable operating position for a minimum period of one year; this restriction would be waived only where the job offer is associated with an expansion of the business or the opening of a new branch office of the main business venture where the latter itself meets the one year condition;

e) there is an aspect about the job which clearly makes a relative a logical and common sense choice for that position e.g. trust, close relationship, a working environment which involves unusual aspects such as long working hours;

f) the prospective immigrant has in his work experience and aptitudes sufficient abilities to indicate he could successfully fill the position.

3. FINAL DETERMINATION – IMMIGRATION OFFICE RESPONSIBILITY

The immigration office will be responsible for making the final determination as to whether the job offer meets the criteria applicable to family businesses. In that determination process, the immigration office may, if necessary, request the opinion of the HRC on the factors set out in 2. b), c), d) and e). If the immigration office is reasonably satisfied that the prospective immigrant meets the relationship definition in 2. a) and considers the job offer meets the criteria factors 2. b), c), d) and e), it will advise the appropriate post abroad. If the immigration office is of the opinion that the job offer does not meet the family business criteria, it will refer the employer to the HRC to determine if the normal validation criteria would apply to the particular job offer being made or for other assistance the HRC may be able to provide the employer to meet his needs.

4. FINAL DETERMINATION – POST ABROAD RESPONSIBILITY

The post abroad will confirm the relationship factor described in paragraph 2. a) and has final responsibility for determining whether the applicant meets factor 2. f) of the criteria.

5. COMPLETING THE IMM 1000

In completing the IMM 1000, where job offers have been accepted under the family business criteria, code 3 in box 23 of the IMM 1000, is to be used.

APPENDIX C
PROCEDURES FOR ASSESSMENTS BY THE CANADIAN COUNCIL OF TECHNICIANS AND TECHNOLOGISTS (CCTT)

Applicants contact the CCTT to obtain and submit qualifications. The assessment fee paid by the applicant is $175. The CCTT's mailing address is 2–285 McLeod St., Ottawa, Ontario K2P 1A1, Canada. The phone number is (613) 238–8123. The fax number is (613) 238–8822.

Visa offices should ensure that applicants are informed of the new procedure, before submitting IMM8s. It should be made clear to applicants, that while this informal assessment is not compulsory, that it is to the benefit of the applicant if they submit a favourable assessment from the CCPE. With the result of their CCPE assessment the applicant can make informed choices about applying to immigrate to Canada. Applicants should also be informed that the CCPE will accept payment by certified cheque, but not by VISA or Master Card.

Applicants who receive a negative assessment from the CCTT will have difficulty qualifying for assessment if they are applying as technicians or technologists. The CCTT counselling information will stress that a negative result means applicants' plans to work in Canada as technicians or technologists are unrealistic. It will also suggest that they reconsider their occupation of assessment for immigrant selection. To this end, the CCTT will refer them to our self–assessment guide for independents and our occupations list.

Assessment results will be sent directly to applicants. Visa offices will not receive a copy directly but must request the applicant to submit the results of his or her CCTT assessment when submitting his or her application form. If a visa office suspects fraud, the CCTT can be contacted for verification. The CCTT will respond, where possible, by the same method within forty–eight hours.

The CCTT assessment process does not replace the selection process. Visa offices must still check the authenticity of educational documents presented, even if the CCTT examines the same documents. If CCTT examiners have suspicions about the documents, they will inform the visa office where the applicant intends to apply or has applied for immigration.

While applicants should be encouraged to obtain the CCTT assessment, we can not insist on one as a prerequisite to the application process. If an applicant submits an application, without a CCTT assessment, the application should be assessed on the available information. In a few cases, where the applicant's credentials are clearly excellent, it may be evident that the applicant will likely to be able to work as a technician or technologist in Canada, even if they have not submitted a CCTT assessment. If the conclusion is that the applicant has not submitted sufficient proof to establish that they can work as a technician or technologist in Canada, the refusal letter should make this clear.

APPENDIX D
PROCEDURES FOR ASSESSMENTS BY THE CANADIAN COUNCIL OF PROFESSIONAL ENGINEERS (CCPE)

Applicants contact the CCPE to obtain and submit applications. The assessment fee paid by the applicant is $175. The CCPE's mailing address is 401–116 Albert St., Ottawa, Ontario, K1P 5G3, Canada. Their internet address is lmacdon@fox.nstn.ns.ca. The telephone number is (613)232–2474. The fax number is (613) 230–5759.

The CCPE no longer refers unsuccessful applicants for assessment of engineering qualifications to the CCTT. Instead a separate application to the CCTT (with a $175 fee) will be among options presented in the CCPE's explanation of negative results.

Visa offices should ensure that applicants are informed of the new procedure, before submitting IMM8s. It should be made clear to applicants, that while this informal assessment is not compulsory, that it can benefit the applicant if they submit a favourable assessment from the CCPE. With the result of their CCPE assessment the applicant can make informed choices about applying to immigrate to Canada, as an engineer or technician. Applicants should also be informed that the CCPE will accept payment by VISA or Master Card. Applicants who pay this way may receive a response in one quarter the time it takes to respond to someone who pays by cheque.

Applicants who receive a negative assessment from the CCPE may have difficulty qualifying for selection if they are applying for assessment as engineers. The CCPE counselling information will stress that a negative result means applicants' plans to work in Canada as engineers are unrealistic. It will also suggest they reconsider their occupation of assessment for immigration selection. To this end, the CCPE will refer them to our self–assessment guide for independent applicants and our occupations list.

Assessment results will be sent directly to applicants. Visa offices will not receive a copy directly but should request the applicant to submit the results of his CCPE assessment when submitting his or her application form. If a visa office suspects fraud, the CCPE can be contacted for verification. The quickest way to do this is by facsimile. The CCPE will respond, where possible, by the same method within forty–eight hours.

The CCPE assessment process does not replace the selection process. Visa offices must still check the authenticity of educational documents presented even if the CCPE examines the same documents. If CCPE examiners have suspicions about documents, they will inform the visa office where the applicant intends to apply or has applied for immigration.

While applicants should be encouraged to obtain the CCPE assessment, we can not insist on one as a prerequisite to the application process. If an applicant submits an application, without a CCPE assessment, the application should be assessed on the available information. In a few cases, where the applicant's credentials are clearly excellent, it may be evident that the applicant will likely to be able to work as an engineer in Canada, even if they have not submitted a CCPE assessment. If the conclusion is that the applicant has not submitted sufficient proof to establish that they can work as an engineer in Canada, the refusal letter should make this clear. However,lists of approved foreign engineering schools and/or other materials provided by the CCPE are not to be copied and provided to the applicants. These materials are copyrighted, and, as they are revised frequently by the CCPE, they quickly become obsolete. Applicants who wish to obtain lists or other CCPE materials should apply directly to the CCPE.

APPENDIX E
PROCEDURES FOR ASSESSMENTS BY THE CANADIAN ASSOCIATION OF OCCUPATIONAL THERAPISTS (CAOT)

All applications for credential assessment must go to:

Ms. Kelly Lowthian
Membership Services Manager
Canadian Association of Occupational Therapists (CAOT)
Carleton University Technology and Training Centre
Suite 3400
1125 Colonel By Drive
Ottawa, Ontario
K1S 5R1

Ms. Lowthian's full telephone number is (613) 523–2268 extension 236.

APPENDIX F
EARLY ADMISSION OF INDEPENDENT IMMIGRANTS

The early admission of any proposed immigrant prior to his/her application being processed to completion may be facilitated by way of a Minister's permit provided you ensure that this action is essential and that there is no reason to believe the person concerned would not be able to meet all the applicable requirements if the application for permanent residence in Canada was completed in the normal manner.

A "true" early admission case therefore, refers only to those applicants for permanent residence whose application has not yet been completed, and no inadmissibilities (criminal or medical) have been identified. This procedure will be considered only for those individuals who are inadmissible under A19(2)(d).

Should an immigration office or visa office become aware of an urgent requirement for a prospective immigrant's services, the complete information and recommendation will be referred to the Director of Immigration of the province of destination. The urgency of the case should dictate the method by which the information is transferred. A decision will be made on the basis of this information and forwarded to both the immigration office of destination and the visa office currently processing the application.

A Minister's permit and an employment authorization will be granted to the principal applicant. If the applicant has received permanent validation for the job, the same validation can be used to issue the employment authorization. A second temporary validation is not required. If no validation was received issue the employment authorization using employment validation code E19. Do not use E03 which is specifically for the early admission of entrepeneurs. Minister's permits and if required student authorizations should be issued to spouse and dependents.

In all cases medical and background checks should be initiated by the visa office. Once the results are received they should be forwarded to the immigration office of destination. The contents of the visa office file should be transferred to the immigration office of destination.

IMMIGRATION

Canada

Chapter OP 6
Processing Entrepreneurs and Self–Employed Immigrants



Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Processing Entrepreneurs and Self–Employed Immigrants

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1. INTRODUCTION

1.1 What this Chapter is about

This chapter explains procedures used at missions abroad that apply strictly to entrepreneurs and self–employed immigrants. It reviews the regulatory definitions, selection criteria and operational issues that relate to these immigrant categories.

Procedures relating to skilled workers are contained in chapter OP 5. Procedures relating to investors are discussed in chapter OP 7.

This chapter also describes the objectives of the Business Immigration Program. As well, it explains the roles and responsibilities of the participants in the entrepreneur program. This includes the increasing role of the provinces and territories.

The Business Immigration Program is presently under review. These guidelines will apply to all applications received at a visa officer prior to the program changes. The current program will continue for a number of years for entrepreneurs because those approved under the current program will be subject to terms and conditions that will be in place for two years after their landing in Canada.

1.2 Policy Intent

The Business Immigration Program seeks to promote economic development and employment by attracting people with venture capital, business acumen and entrepreneurial skills. The program also seeks to develop new commercial opportunities and to improve access to growing foreign markets by "importing" people who are familiar with those markets and their special requirements and customs. The program is also intended to support provincial and territorial economic objectives.

The business program currently involves three categories of immigrants – entrepreneurs, investors and the self–employed.

The principles of the Business Immigration Program are in keeping with the objectives stated in section 3 of the *Immigration Act*. It is specifically intended to respond to Canadian immigration policy as stated in subsection A3(h).

> A3. It is hereby declared that Canadian immigration policy and the rules and regulations made under this Act shall be designed and administered in such a manner as to promote the domestic and international interest of Canada recognizing the need...
>
> h) to foster the development of a strong and viable economy and the prosperity of all regions in Canada.

The federal, provincial and territorial governments encourage prospective business immigrants to invest in Canada. Over the years, thousands of foreign business people have found Canada to be an excellent place to invest capital and to apply their particular business know–how to Canadian ventures.

Canadian business people have also benefited from the Business Immigration Program. In a wide variety of situations, they have been put in touch with immigrants who can contribute expertise to a Canadian venture or who have capital to invest.

1.3 Statutory Definition, *Act* and *Regulations*

The *Immigration Regulations* define an "entrepreneur" to mean an immigrant

> (a) who intends and has the ability to establish, purchase or make a substantial investment in a business or commercial venture in Canada that will make a significant contribution to the economy and whereby employment opportunities will be created or continued in Canada for one or more Canadian citizens or permanent residents, other than the entrepreneur and his dependants, and
>
> (b) who intends and has the ability to provide active and on–going participation in the management of the business or commercial venture;

The *Immigration Regulations* define a "self–employed person" to mean an immigrant who intends and has the ability to establish or purchase a business in Canada that will create an employment opportunity for himself and will make a significant contribution to the economy or the cultural or artistic life of Canada.

The *Act* and the *Regulations* also contain other specific provisions in respect to entrepreneurs and the self–employed. These include the applicable selection criteria, the terms and conditions of landing for entrepreneurs and dependants, and the provisions with respect to varying or cancelling the terms and conditions of landing.

Sections of the *Act* applying to entrepreneurs or self–employed immigrants:

A4	Right to come into Canada
A6	General principle of admissibility
A9	Applications for visas
A14(5)(a)	Obligation on immigration officer to impose terms and conditions
A14(6)	Authority for an official of a province to impose terms and conditions
A15	Application to vary or cancel terms and conditions
A114(1)(m.3)	Authority for interviews by visa officer
A114(1)(ii.2)	Authority to prescribe terms and conditions

Regulations applying specifically to entrepreneurs or self–employed immigrants:

R2(1)	Definition of "entrepreneur" and "self–employed person"
R8(1)(b)	Selection criteria, self–employed person
R8(1)(c)	Selection criteria, entrepreneur
R8(4) and R9(1)(b)(i)	Units of assessment, self–employed person
R9(1)	Authority to issue visas
R9(1)(b)(ii)	Units of assessment, entrepreneur
R9(1)(c)(i)	Immigrants who intend to reside in the Province of Quebec

R11(1)	Selection criteria – experience factor
R11(2)(a)	Selection criteria – occupational demand
R11(3)	Discretionary authority
R11.1(b) and R22.1	Selection interviews
R23.1(1)(a) to (d)	Prescription of terms and conditions subject to which entrepreneur immigrants and their dependants shall be granted landing
R23(1)	Additional terms and conditions
R24(1)	Application to vary or cancel terms and conditions
Schedule 1	Calculation of units of assessment

PROCESSING ENTREPRENEURS

2. ROLES AND RESPONSIBILITIES

This section outlines the roles and responsibilities of immigration officers at the visa office, the port of entry, inland offices, Regional Headquarters (RHQ) and National Headquarters (NHQ) in processing applications, selecting, counselling, landing, monitoring and assessing program compliance of permanent residents landed as entrepreneurs. It also describes the roles and responsibilities of provincial and territorial officials in the Business Immigration Program.

2.1 Visa officers

Visa officers assess and process all applications for permanent residence in Canada. Business immigrants wishing to settle in Quebec require a Quebec certificate of selection (CSQ) to enable processing.

Visa officers are often the business applicant's first point of contact. They provide information to assist an applicant in choosing the most suitable immigration category. This choice will depend on an applicant's qualifications, resources and personal interests. They provide the necessary application kits and inform the prospective applicant of what may be required. They may provide promotional materials about the Business Immigration Program.

Visa officers assess the potential entrepreneur to determine whether he or she meets the definition set out in R2(1). They examine the applicant's business and financial background. They evaluate the soundness of the entrepreneur's business plans in Canada. Visa officers must be satisfied that the applicant's wealth and business experience were not obtained from sources that would render him or her inadmissible under A19(1). They may interview applicants if required to clarify any of these or other points.

During the selection process, visa officers may provide counselling on all aspects of the program. They provide information about the universal terms and conditions imposed on all entrepreneurs. They recommend exploratory visits to Canada. They may refer the client to useful contacts both abroad and in Canada.

Visa officers issue immigrant visas to the applicant and dependants who meet the selection criteria and the statutory requirements. They recommend the terms and conditions of landing imposed on all entrepreneurs and their dependants. They include the attachment to the IMM 1000 that the immigrants will sign when they are landed.

Visa officers provide the entrepreneur with a Monitoring and Counselling Guide, which provides details on the reporting requirements, a mail–in card used for the first reporting period, the form to vary or cancel terms and conditions, and a list of federal and provincial business immigrant contacts who can help the entrepreneur comply with terms and conditions. See APPENDIX C.

2.2 Port of entry

The immigration officer at the port of entry is legally responsible for imposing terms and conditions.

The entrepreneur and his or her dependants will be asked to sign the declaration on the IMM 1000 and date and sign the attachment which contains the full wording of the terms and conditions. This attachment will then become part of the landing documentation. Box 43 of the IMM 1000 should specify the conditions being imposed with reference to the regulations, contain the appropriate code, and make reference to the attachment. It is the responsibility of the port of entry officer to ensure that the information completed at the visa office is correct and that the entrepreneur and dependants are fully counselled on the terms and conditions of landing and that they all sign the IMM 1000s and the attachments as appropriate.

To assist in the Counselling process, the immigration officer should provide the entrepreneur with a copy of a Monitoring and Counselling Guide if the applicant did not receive a copy from the visa officer, or does not have the copy. It is important that the entrepreneur has a Guide, as it provides details on the reporting requirements, as mail–in card used for the first reporting period, the form to vary or cancel terms and conditions, and a list of federal and provincial business immigrant contacts who can help the entrepreneur comply with terms and conditions. See APPENDIX C.

2.3 Inland officials

Immigration counsellors assess the entrepreneur's efforts to comply with the terms and conditions. They counsel and monitor entrepreneurs after landing. They make the final determination on compliance with terms and conditions. They take appropriate enforcement action in cases of non–compliance. They also refer the entrepreneur to appropriate sources for assistance in setting up a business.

The supervisor trains and coaches immigration counsellors on all aspects of the entrepreneur program, including monitoring procedures and techniques. The supervisor reviews counsellors' decisions on compliance with terms and conditions. He or she concurs or disagrees with A27(1) reports on entrepreneurs who have not complied with the terms and conditions imposed. The supervisor provides guidance on all contentious cases. He or she supervises all monitoring activities for entrepreneurs destined to the area of jurisdiction.

The manager of an inland office oversees the monitoring of entrepreneurs in the area of jurisdiction. This person provides statistical and operational information to RHQ as required. The person provides recommendations about program activities carried out at that office. The manager makes resource allocations to carry out the entrepreneur program. The manager reviews all A27(1) reports on entrepreneurs. He or she has the delegated authority to concur or not concur with an A27(1) report with a "no direction" recommendation.

2.4 Regional Headquarters

The regional business immigration coordinators coordinate the program activities of their region. They advise the NHQ Business Immigration Division of contentious cases in their region. They collect monitoring data from the local immigration offices for transmission to NHQ. This data is gathered using the Entrepreneur Monitoring Information System (EMIS). For more details on EMIS and on monitoring, see section 4.14.

They review the cases of their region for which the conditions of landing are not cancelled after two years. They review all A27(1) reports recommending a direction for inquiry. They concur or disagree with the A27(1) reports.

The Regional Office monitors the decisions of inland offices to ensure compliance with program requirements. The office provides guidance on contentious cases. A regional spokesperson responds to requests for information from the media and the public.

2.5 National Headquarters

The Business Immigration Division at NHQ manages the delivery of the program.

The Division develops policies. It recommends regulatory changes. It provides guidance and direction on program delivery for the field. The Division develops and implements the on–going activities of EMIS. It evaluates processes and procedures to ensure their consistency with law and policy. It provides operational reports for the public, the Minister, other government departments, and for other branches or regions. It liaises with Appeals and Litigation to review cases in the inquiry/appeal process. It updates the business chapters of the immigration manuals. It assists in the preparation of training materials for immigration officers.

2.6 Provincial and territorial officials

Each Province or Territory has prepared a set of guidelines containing its views in respect of the Business Immigration Program. See the Provincial and Territorial Guidelines in APPENDIX F.

The majority of Provinces and Territories participate in the Business Program. They may review proposals, monitor performance and, in some cases, promote the program overseas. Excepting Quebec, they are not directly involved in the selection process. The federal government has exclusive responsibility for selecting immigrants destined to all provinces except Quebec. The federal government also has sole jurisdiction for varying or cancelling the Entrepreneur's terms and conditions in Canada.

The Provinces and Territories support the goals of the Business Immigration Program and recognize its significant economic benefits. Several may have designated officials specializing in the Entrepreneur Program. Several may have activities in Canada to assist entrepreneurs before or after landing. Some may respond to written inquiries from potential applicants. Others may offer seminars or counselling sessions. Some may engage in various promotion and marketing activities. Some may send officers abroad to recruit applicants and provide information about doing business in Canada.

Some Provinces and Territories wish to become involved with entrepreneurs prior to their application. Others do so from the point of application onward. Others are primarily interested in assisting entrepreneurs once they have landed.

Provinces or Territories may on occasion provide comments to the visa officer to assist the officer. They may, for example, evaluate an applicant's business proposal and express their reservations or support. Some may appreciate an opportunity to review all cases destined to their area prior to visa issuance. In such cases, visa officers should consider their input before making a final decision.

Other provinces or territories may prefer more limited contacts with the visa office. They may be likely to communicate with visa offices only on high priority or urgent cases. They may wish to review only contentious, questionable or high profile cases.

Provincial and territorial officials may provide various post–landing services. They may be able to provide counselling and assistance to entrepreneurs in setting up their businesses after landing. Their role differs from inland officials. Inland officials focus their counselling on the issue of compliance with terms and conditions.

Provincial and territorial officials may assist in the monitoring of entrepreneurs. They may provide their views to inland officials about the value of an entrepreneur's investment in Canada, its economic contribution or other aspects of compliance with the terms and conditions. The final decision on compliance rests solely with federal immigration officials.

If a case goes to inquiry, the provincial or territorial authorities may be able to provide a written opinion about the scope and the economic impact of a business. There is a precedent for such officials appearing at an inquiry to serve as expert witnesses.

2.7 Province of Quebec

The province of Quebec has provided a description of its Business Immigration Program for inclusion in the OP manual. Refer to APPENDIX G.

The province of Quebec has signed an agreement with the federal government pursuant to A108. It thereby obtained the right to select its own independent immigrants. All independent immigrants who intend to settle in Quebec, including business immigrants, are selected pursuant to the Canada–Quebec Accord on Immigration.

Pursuant to the Constitution Act, Quebec regulations must be consistent with federal regulations. Therefore, while federal and provincial officials share their responsibilities differently, the principal elements of the program will be the same. While Quebec officials are responsible for the selection of entrepreneurs, federal officials retain sole responsibility for the following:

- evaluation of inadmissibility under A19;
- issuance of visas;
- granting of landing;
- imposition of terms and conditions;
- final determination on compliance with terms and conditions; and
- enforcement action.

Because of Quebec's unique role in selection, an understanding was developed between provincial and federal officials to monitor entrepreneurs in Quebec. The understanding is between la Direction de l'aide à l'immigration d'affaires (DAIA) du ministère des Affaires internationales, de l'Immigration et des Communautés culturelles (MAIICCQ) and Regional Headquarters in Montreal. The DAIA monitors each entrepreneur established in Quebec and provides an opinion to the local Canada Immigration Centre about compliance with the terms and conditions. As stated earlier, the final decision concerning compliance remains with the federal government.

A14(6) and A14(7) allow the Province of Quebec to impose its own terms and conditions. Any province that has entered into an agreement pursuant to A108 has this authority. Any provincial terms and conditions have the same force and effect as federal terms and conditions. As yet, the Province of Quebec has not availed itself of this provision to impose terms and conditions.

3. ASSESSING ELIGIBILITY

3.1 Definition of entrepreneur

In order to be approved as an entrepreneur, the applicant must first meet the regulatory definition of an entrepreneur, and then comply with the selection criteria for that category of immigrant.

A visa officer is obliged to apply the regulatory definition of "entrepreneur" and not the policy choice of the federal or provincial governments. You must be satisfied on a balance of probabilities. Where you have concerns, the applicant should be given a fair opportunity to correct or contradict your concerns. You have an obligation to provide a thorough and fair assessment in compliance with the terms and spirit of the legislation and procedural fairness requirements.

You may consider a number of factors in deciding if the individual meets the definition of an entrepreneur. The following aspects of the regulatory definition should be factored into your assessment of an immigrant (see section 1.3 refers):

- who intends and has the ability...
- to establish, purchase or make a substantial investment in a business or commercial venture in Canada...
- that will make a significant contribution to the economy...
- whereby employment opportunities will be created or continued in Canada...
- who intends and has the ability to provide active and on–going participation in the management...

Each of these aspects is examined separately below.

The following are among the points to consider in your assessment of an applicant's **intent and ability** to do business in Canada. The onus is on the applicant to document his or her qualities and skills:

- net worth;
- past and present fields of activity;
- level of expertise;
- standing in the business community;
- recognition for business achievements;
- ownership of intellectual property;
- educational background;
- specialized business training;
- memberships in professional associations;
- market research;
- exploratory visit to Canada;
- preparation for the move to Canada;
- education in Canada;

- official language proficiency;
- ownership of assets in Canada;
- relatives in Canada; and
- other knowledge of Canada or connections with Canada.

Note that the definition of an entrepreneur does not refer to a business track record nor to experience. While the person does not need to have a clear track record, past success in business is a strong indicator of the intent and ability to establish a business in Canada. A history of significant business responsibility will certainly strengthen the application.

General business experience or management experience may be a good measure of the applicant's intent and ability to do business. Some types of non business experience may also be readily transferable to a business setting. This may include financial or personnel experience, experience as a professional, or specific experience in the field of the intended business. The stronger the applicant's experience, the more it will enhance the application.

The **establishment or purchase of a business** should have an expectation of on–going commercial activity and of profit generation. The entrepreneur should hold a significant degree of control in the business.

A **substantial investment** in a business denotes the purchase of a portion of a business (as a partner) or of shares (as a shareholder). "Substantial investment" does not require a specific dollar figure, nor a fixed minimum investment. Evidence of a "substantial investment" may be given by the amount of capital transferred to Canada for investment, by the degree of control acquired over the business in which the investment is made, or by the absolute size of the business in relation to the investment.

Immigration officers in Canada look to a business' longevity to determine if there is a **significant contribution to the economy**. They look for evidence that the business contributes in more than a temporary and marginal way to the level or nature of economic activity of Canada or one of its communities, regions, provinces or territories.

Visa officers should take a similar approach. The business proposal must be considered only as indicative of the applicant's intent and ability to establish a business in Canada. Consider the type of business proposed, its location, start up costs, the availability of Canadian partners, the nature of any inventory or equipment to be taken to Canada and shipping and customs costs when making this assessment.

Where you require specialized advice to make an assessment, you may refer the business proposal to the applicant's province of destination. The provincial assessment of "significant contribution" should be taken into consideration when reaching your decision. The applicant must, however, be given a fair opportunity to rebut any negative provincial assessment. Refer to the Provincial and territorial guidelines in APPENDIX F for more details.

In the case of Liu v. The Minister of Employment and Immigration (1991), the Immigration Appeal Division held that the following were factors that could be considered in determining whether an entrepreneur had made a significant contribution to the Canadian economy (the IAD noted that the list was not intended to be exhaustive):

1. There must be an establishment of a business to which at least one employee (other than the entrepreneur and his family) reports to work.

2. The commercial activity must be carried on in anticipation of profit.
3. The business must be earning revenues.
4. All business licensing requirements of the municipality must have been met.
5. All legal requirements must have been fulfilled (i.e. deductions, etc.).

Another way to assess economic benefit is to determine if there would be any negative impact on the economy if the business were not established or purchased. Consider the following:

- Would there be significant loss of employment or employment opportunities?
- Would clients purchasing goods or services from the business be negatively affected, or merely switch to another supplier/retailer/manufacturer?
- Would there be any significant loss of revenue to the federal, provincial or local governments?

The entrepreneur is required to create or continue **employment opportunities** in Canada for one or more Canadian citizens or permanent residents, other than the entrepreneur and his dependants. The employment opportunity should be equivalent to full–time employment, either one person working full time, or two people working the equivalent of a full–time position. A person who cannot afford to hire a full–time employee may show a lack of the requisite ability. The Act defines "employment" as "any activity for which a person receives or might reasonably be expected to receive valuable consideration".

Retaining the services of accountants, lawyers, or business consultants on a fee–for–service basis does not create employer–employee relationships and thus does not create employment opportunities.

In order to satisfy the requirement of **active and on–going participation in the management of the business**, the entrepreneur must demonstrate input into management decisions through involvement in the operations of the business on a continuing basis. Each case should be judged on its own merits. It should be noted that the requirement does not require the entrepreneur to be present each and every day.

"Active" can be considered as causing action or change, and "on–going" as continuing.

A review of jurisprudence has established that a professional practice constitutes "a business". It does not matter whether or not the professional devotes more time to providing services to clients than to managing the practice. Such persons will, of course, have to show that they have created or continued employment opportunities in Canada through their company in order to have terms and conditions removed.

Persons who wish to operate a professional practice in Canada must meet Canadian licensing requirements. The burden is on the applicants to show how their skills and experience are transferable to the Canadian labour market.

If it appears that a business is being purchased as a short term measure for the sole purpose of seeking the cancellation of terms and conditions (flipping a business) it will not likely satisfy the requirement of on–going participation in the management of that business. Additionally, it is also not likely to satisfy the requirement that the business make a significant contribution to the economy.

As a general rule, passive investment in real estate, bonds or other securities, or other investments made primarily with the hope of capital appreciation, would, in itself, not satisfy the requirement of significant contribution to the economy, or active and on–going management.

An entrepreneur who enters into franchise agreements or into partnership agreements with other entrepreneurs must meet all the provisions of the program, including significant contribution to the economy and active and on–going management. An arrangement where one partner funds a partnership, and another provides the business expertise would not be satisfactory. As well, each partner's efforts must create or maintain at least one employment opportunity.

Some provinces or territories may have developed other definitions for use within their jurisdictions. These reflect provincial or territorial priorities, experience and knowledge of local conditions. However, they are not requirements under the *Immigration Act* and *Regulations* and do not have the force of law.

3.2 Selection criteria

If you are satisfied that an applicant meets the entrepreneur definition, the applicant is assessed on a modified version of the point system. Entrepreneurs are assessed on seven of the nine factors in the selection criteria set out in Schedule 1 of the Regulations. They only require 25 units of assessment out of a maximum of 87 units available. This is equivalent to 45 bonus points being awarded.

SELECTION CRITERIA – ENTREPRENEURS

FACTORS ASSESSED	MAXIMUM UNITS
Education	16
Specific Vocational Preparation	18
Experience	8
Occupational Demand	N/A
Arranged Employment/Designated Occupation	N/A
Demographic Factor	10
Age	10
Knowledge of English and French Languages	15
Personal Suitability	10
TOTAL UNITS REQUIRED	**25**

Note: Quebec immigration officers use a modified version of this criteria.

Because the entrepreneur will manage a business in Canada, he or she is not assessed under Occupational Demand and Arranged Employment/Designated Occupation. Assessment is based on the business sector in which the applicant will establish his or her business. The Standard Industrial Code (SIC) is therefore used.

Pursuant to R11(1) a visa officer shall not issue an immigrant visa to an applicant who is not awarded any units of assessment for experience unless he or she has arranged employment or is prepared to engage in employment in a designated occupation. Since the entrepreneur is not assessed under Arranged Employment/Designated Occupation, in order to pass paper screening he or she must be awarded at least one unit of

assessment for experience as set out in item 3 of Schedule 1 of the *Regulations*. You must assess the applicant for experience in the occupation that he or she is qualified for and is prepared to follow in Canada.

R11(3) provides authority to issue or refuse an immigrant visa in specific cases regardless of the units of assessment. R11(3) applies if, in your opinion, there are good reasons why the units of assessment awarded do not reflect the chances of the immigrant and his or her dependants of becoming successfully established in Canada. Negative discretion may only be used for economic reasons (i.e., involving the ability to support oneself). In 1995, the Supreme Court confirmed that this discretionary authority is restricted to successful establishment in the economic sense.

To meet the definition of an entrepreneur, an applicant must satisfy you that he or she has the intention and ability to establish a business in Canada. If you conclude that the applicant is able to do this without experience, it would be appropriate to exercise discretion pursuant to R11(3).

3.3 Documentation

The documentation requested should primarily provide evidence about the applicant's financial position and previous business experience. While the ultimate test is whether an entrepreneur has the ability to successfully establish a business in Canada, prior business experience may be extremely useful in making this determination.

You should actively discourage the submission of a formal business plan. The level of detail required in a legitimate business plan is not consistent with the time lines for starting a business in another country. There is no basis in law to require an entrepreneur to undertake a specific business activity or to locate in a specific area.

Several provinces have made it clear that they are much more interested in the applicant's record of success than in the kind of business he or she plans to set up in Canada. Some provinces specifically request that you not refer business proposals to them. Instead, the provincial officials follow up with the entrepreneur after arrival in Canada, as they feel that this makes better use of provincial resources.

The three following documents provide a starting point to investigate the applicant's past and present business experience:

- personal net worth statement
- balance sheet
- income statement

These documents provide an accounting of the applicant's assets and liabilities. They also provide an indication of the liquid assets available for use in Canada. They are discussed in the next sections.

3.4 Personal net worth statement

Though the *Regulations* do not set out any minimum net worth requirement nor a minimum amount to be transferred to Canada, net worth is critical to the assessment of business intent and ability.

A version of the "Personal Worth Statement" is generally submitted with the original application. The form used in Hong Kong is given in APPENDIX A.

The personal net worth statement will generally include both business and personal assets.

You should review this document to satisfy yourself as to the completeness, valuation, ownership, existence and presentation of the component assets and liabilities. Applicants should be able to provide documentation to support the value of assets referred to on this statement (bank statements, property valuations etc.).

The applicant should show evidence of the liquidity of all international assets. Funds tied up in jointly owned businesses, real estate, stocks, antiques or jewellery may not be available for transfer to Canada. Funds may be in non convertible currencies. Exchange controls may restrict movement of capital to Canada. Net worth should therefore be assessed on the basis of assets minus liabilities in respect of assets transferable to Canada.

The entrepreneur will need sufficient funds to settle his or her family in Canada and provide for its support before the Canadian business endeavour becomes profitable. Take into consideration the family's initial transportation expenses, living costs at the place of destination in Canada, the family's size and age, its level of education and literacy in English or French, and whether other members will enter the labour market in the short term.

3.5 Financial statements

A complete set of financial statements generally includes:

- Balance Sheet;
- Income statement (or "Statement of Income and Retained Earnings");
- Statement of Changes in Financial Position; and
- Notes to the Financial Statements.

For our purposes the most important statements are the Balance Sheet and Income Statement.

The performance of the business over time is the primary concern and if possible financial statements for the previous three years should be provided for comparative purposes.

Given the limited objectives in conducting a review of the financial statements provided by an applicant, it will generally not be advisable to try to conduct detailed analysis but rather to draw impressions. It should be kept in mind, however, that financial statements are transactions based.

Previous business failures do not in themselves signify the refusal of an application, but should be thoroughly explained by the applicant.

3.6 Balance sheet

What is referred to as the balance sheet's accounting equation is:

Assets (the total money invested in the company) =

Liabilities (the money supplied by creditors)

+ Owners' Equity (money supplied by owners).

Any asset or liability which will be converted into cash within one year is defined as "current" and the difference between current assets and current liabilities provides some indication of a company's liquidity and solvency.

The balance sheet provides a snapshot in time. Given that the information provided is accurate, it provides an indication of the assets available to conduct business operations and an indication of the scope of operations.

The balance sheet may often reveal a company's financial state at one point in time and the soundness of the company's structure. You should watch for decline in sales and increase in inventory, as this tends to indicate a downward trend for the business.

When reviewing the balance sheet, it should be remembered that it is based on transactions. As a result, it discloses a book value which may not correspond to the market value of an enterprise.

For example, fixed assets will be recorded at historical cost less an estimate for depreciation which may not bear any resemblance to fair market value. This is especially true with land whose fair market value may be many times the original cost.

3.7 Income statement

The income statement measures a company's sales (revenue), expenses and earnings over a specified time period, usually one year.

The income statement provides an indication of the scope of operations (along with the balance sheet).

The income statement is a good indicator of a company's financial performance. Earnings and trends in earnings are the best indicator of a company's financial well being. Changes or trends in financial position should tell you if the company is growing or declining.

The income statement may help you determine the company's net book value (if the business were to be sold, how much would it realize?) and the number of its employees (from the wage and salary expenses).

In some cases, small businesses may only be able to produce an income statement generated specifically for tax purposes.

You should review the income statement to verify the completeness, measurement, occurrence and presentation of the component revenue and expenses.

When reviewing the income statement, it should be kept in mind that it is based on transactions. Particularly in the case of a small enterprise, it is advisable to look at the individual components and not simply the net income.

For example, business valuators "normalize" income by considering how much has been expended by the owner in salaries and how much would be a reasonable salary to pay an employee to do the same job. An owner may not charge any salary at all and as a consequence may show considerable net income or alternatively allocate a large amount to salaries expense and show very little net income or even a loss for tax purposes. It would therefore be in order to inquire as to the number of employees and the amount of salary expense which can be attributed to the owner.

3.8 Integrity of financial statements

In Canada there are essentially three levels of assurance which a public accountant can provide to the users of financial information.

The objective of an **audit** is to express an opinion whether the financial statements present fairly, in all material respects, the financial position in accordance with generally accepted accounting principals. This is the highest form of assurance. The auditor performs the audit with an attitude of professional scepticism, and seeks reasonable assurance whether the financial statements are free of material misstatement.

Review engagements are distinguishable from audits in that the scope of review is less than that of an audit and therefore the level of assurance provided is lower. A review consists primarily of enquiry, analytical procedures and discussion related to information supplied to the public accountant by the enterprise with the limited objective of assessing whether information being reported on is plausible within the framework of appropriate criteria.

Compilation engagements are engagements in which a public accountant receives information from a client and arranges it into the form of a financial statement. The public accountant is concerned that the assembly of information is arithmetically correct; however, the public accountant does not attempt to verify the accuracy or completeness of the information provided.

In Canada it would be unusual for a small private business to have an audit. The *Canadian Business Corporations Act* requires an audit if sales exceed $10,000,000 but even in that case, if the company is closely held, it can waive the audit requirement.

The majority of small companies or companies which do not have to report to a bank or other creditors will just get a compilation when they get their tax returns professionally prepared.

Most countries have a similar range of reporting engagements. In particular, if there has been a British influence in the past (i.e., Hong Kong), the standards will be very close to ours.

In the absence of suspicious circumstances it will ordinarily be appropriate to accept financial statements which have been reported on by a reputable external accountant. Most small businesses are extremely unlikely to have been audited and in those circumstances when there is some doubt as to the veracity of the financial information supplied, the first step should be to request further documentation.

Audited financial statements should only be requested as a last resort. It should be requested only if it has credibility in the applicant's home jurisdiction and if its submission could cause you to approve an application which would otherwise be refused. Obtaining an audited financial report would be at the applicant's discretion if he or she chose to pursue this option rather than be refused for failure to prove that he or she meets the definition of entrepreneur.

3.9 Other documentation

Other supporting documentation and a brief summary of the information which may be gleaned from it include:

- Corporate income tax returns
  - owners and directors
  - related parties
  - profit for income tax purposes
  - duration of operations

Note that net income (per the financial statements) and taxable income (per the tax return) will differ as a consequence of the different treatment of certain items such as depreciation. However there should be a reconciliation to explain the difference. It would certainly be cause for concern if it appears that different information is being presented for the purposes of financial statements and tax reporting (two sets of books).

Inability to produce tax records would be a cause for concern, as would a pattern of insufficient profit to at least provide for the cost of living of the applicant and his or her dependants.

You may encounter cases where you may suspect some degree of tax evasion. In such cases, you should be guided by the principle that it is the applicant's responsibility to discharge the onus of proof of success, and that this is best done through the provision of objective documentation. Tax evasion is discussed in section 6.9 of the Investor chapter, OP 7.

- Personal income tax returns
  - proprietor's profit and loss
  - supporting financial statements
- Minute books
  - shareholders' register
  - shareholders' resolutions
  - minutes of meetings
  - articles of incorporation
- Share Certificates
  - indication of ownership
- Municipal permits, business licences, etc.

The above should show the type of business organization. Most business undertakings are conducted either as proprietorships, partnerships or corporations (legal entities organized for specific purposes with limited liability).

As a general rule most small businesses start as proprietorships or partnerships and evolve into corporations as the level of business activity expands.

Most businesses must be registered or licensed. The business registration certificate shows in whose name a business is registered. Though it may not indicate who owns or operates the business, it may give the business address and indicate whether the business is a sole proprietorship, a partnership or a corporation.

- Payroll records
- Sales taxes
- Property deeds, land registrations, appraisals, etc.

Property deeds or bank letters may verify ownership of property or stocks, amounts of outstanding mortgages and banking facilities used. Request a one year record of bank deposits to verify their long–term ownership.

Property appraisals are an extra expense to the applicant and should only be requested if the property value given by the applicant is questionable and this assessment is critical to total net worth.

- General ledger, cash book or bank statements

The supporting accounting records may be useful in some circumstances.

4. PROCEDURES

4.1 Pre–application counselling

As with the Investor program, visa officers are well placed to provide objective information about the entrepreneur program to applicants and third party representatives. As such, you are encouraged to take an active promotion and marketing role.

Promotional efforts should familiarize potential applicants with the services offered by provincial governments to business immigrants. Where feasible, you are encouraged to coordinate your promotional efforts with those of provincial government representatives who may also be active in this field.

Where potential demand warrants, you are encouraged to hold business immigration seminars to provide information about the program, field questions from those in attendance, and clarify the roles and responsibilities of the federal government and the provincial governments.

The "Business Applicant Summary" is commonly used at many missions as a means of counselling. This form provides information on the applicant's business and educational background and on the general nature of the business which may be established in Canada. Most missions use a similar questionnaire which is completed and submitted with the original application. The questionnaire used in Hong Kong is given in APPENDIX B.

Recruitment may be also be assisted by making promotional material available to prospective immigrants.

One such tool is the kit "Applying as a Business Immigrant" (IMM 5305–02–94). The kit explains the Entrepreneur and Investor categories and application procedures and provides the necessary application forms (IMM 8 and family tree). This kit is becoming the standard and exclusive source of written counselling information on the Business Immigration Program from the federal government. It may be ordered from Material Management on non–controlled forms requisition (IMM 1389).

Other business counselling material may also be ordered from Headquarters (HRDC Material Management):

- Entrepreneur Counselling and Monitoring Guide (IMM 5348–02–95) – this is reproduced as APPENDIX C;
- Immigration and Doing Business in Canada (MP23–115/1993);
- Temporary Entry to Canada under the NAFTA (C&I–091–09–95)

Other promotional material may be available from the provinces or other agencies.

Promotion and the counselling of business immigrants are discussed more fully in section 5 of the Investor chapter, OP 7.

4.2 Exploratory visits

You should encourage prospective entrepreneurs to make an exploratory visit to Canada before applying for permanent residence. The visit gives the applicant the opportunity to acquire first–hand knowledge about living and doing business in Canada.

The provinces and territories strongly encourage this practice. Some provide services to potential entrepreneurs at this time, such as information seminars or individual consultations. Applicants should be encouraged to take advantage of these services. See the provincial and territorial guidelines in APPENDIX F.

The applicant should contact provincial officials well in advance of any exploratory visit, to obtain information on services available. A list of provincial and territorial business contacts is given in APPENDIX C, as part of the Entrepreneur Counselling and Monitoring Guide.

Before issuing a visitor's visa, you should ensure that the applicant is a bona fide business person who has the credentials, qualifications and potential to follow through on his or her plans.

4.3 Making an application

The procedures described in this section apply to all applicants except those destined to Quebec. (Those are discussed in section 4.9)

You should ensure that, in addition to the usual counselling material, the information package given to a prospective applicant includes clear information on what supporting documentation you will require to assess an applicant's ability to meet the definition.

Applicants should be asked to submit a version of the Personal Worth Statement and Business Applicant Summary with their application for permanent residence. The forms used in Hong Kong are given as examples in APPENDIX A and APPENDIX B.

Most provinces and territories do not require you to refer new business immigrant cases to them for comment or recommendations. Others do set out referral procedures. See the provincial and territorial guidelines for details, in APPENDIX F.

Most provinces and territories will provide comments to the visa office upon request, in order to assist you in your decisions. Some may recommend particular cases to you where they anticipate significant economic benefit in their area. You should take any provincial or territorial views into account in reaching your decisions. The final decision remains your own.

The guidelines for dealing with non-resident applications are discussed in chapter OP 1.

You should accord the same processing priority to business immigrants as to other categories of immigrants. Applicants must understand that their application will not receive special consideration because they may have chosen to be represented by a lawyer or consultant. Lawyers and consultants representing business applicants should comply with the same standards applying to third party representatives in any other kind of immigrant case.

4.4 Cost recovery

The cost recovery fee is payable at the time the application is made. The cost recovery fee is not refundable.

The ROLF is only refundable, upon request, to applicants who do not obtain permanent resident status.

The cost recovery fee must only be charged for persons who intend to immigrate to Canada. ROLF is also only for persons who intend to immigrate to Canada. Non-accompanying dependants do not pay these fees even though they must undergo statutory processing.

If an applicant requests a change in category within the Business Immigration Program before a final decision has been reached, no new fees are required. If an applicant who applied in the independent class requests consideration as a business immigrant, he/she must pay the difference between the two cost recovery fees (calculated as of the date the application was received) before processing may continue. An applicant who paid the fee as a business immigrant, but subsequently changes mind and wishes to be considered as an independent applicant, is not entitled to a refund of the difference in cost recovery fees.

Successful applicants who decide not to use their visas must return the visas to the visa office in order to obtain a ROLF refund. Unsuccessful applicants should be informed as part of the refusal letter that they are entitled to a ROLF refund. The visa office that finalized a case is responsible for processing any related ROLF refund.

4.5 Interviews

Under R11.1(b), all business class applicants are entitled to an interview.

Where the documentation submitted with the application clearly establishes eligibility, and you are satisfied of its authenticity, waiving the interview may be appropriate.

Bill C–86 provided authority to convoke the applicant's dependants for an interview as well. You may require the dependants' presence as long as the interview is necessary for the purpose of assessing the application. This applies whether or not they will accompany the principal applicant to Canada.

Members of a family need not be interviewed at the same time and place. Per R22.1(3), you have the authority to hold the interview of the principal applicant and of his dependants (if interviewed) at the visa office or at any other appropriate location. There are no limitations upon what is considered appropriate, but you should have reasons for requiring the presence of dependants at an interview.

As always, all statutory requirements must be met before a visa may be issued, including medical, criminal, security, truthfulness and proof of relationship to the dependants.

The onus is on the applicant to produce all relevant information in support of his or her application. The applicant is expected to provide original supporting documentation at the time of the interview (if held). The applicant may need to provide certified translations in English or French, or an interpreter, as required. The interpreter should be a professional, and neither a friend, relative, employee, lawyer or consultant of the applicant.

As discussed in section 3.1, where you have concerns about eligibility or admissibility, the applicant must be given a fair opportunity to correct or contradict your concerns. The applicant must be given an opportunity to rebut the content of any negative provincial assessment which may influence your decision.

In approved cases, you must insure during the interview that the entrepreneur fully understands and accepts the terms and conditions that will be imposed.

You may encourage applicants to voluntarily comply with the provincial and territorial guidelines. Applicants must understand that the guidelines reflect provincial or territorial priorities but are not requirements under the *Act* and *Regulations*.

You should encourage successful applicants to take advantage of the post–landing counselling services that may be offered by some provinces or territories. Some provinces request all entrepreneurs to contact them after arrival.

4.6 Request to change category

Applicants are assessed in the category applied for. When an applicant requests assessment in more than one category, the higher of the two applicable (and non refundable) cost recovery fees must be paid before paperscreening.

An applicant may change category within the Business Immigration Program at any time prior to the selection decision. Another interview or submission of additional documentation may be required to assess eligibility under the new category. As discussed in section 4.4 under cost recovery, no new fees are required.

Changing category should not occur frequently. The decision to change category rests with the applicant.

There is no provision to change category within the Program after the visa is issued. The change is not possible for both regulatory and operational reasons. An immigrant landed with terms and conditions is, in fact, landed. There is no provision to have an individual apply for permanent residence when he already has that status.

Do not process cases of entrepreneurs who may wish to reapply as investors after they are landed. Per R9(1) you may issue a visa only to an immigrant. Per A2(1), however, an immigrant is a person who seeks landing and a permanent resident is a person who has been granted landing. The person in question would already be a permanent resident and not an immigrant. A5(2) allows for the granting of landing to immigrants, not to permanent residents. A6(1), covering the admissibility of immigrants, also only refers to immigrants and not permanent residents.

A permanent resident would need to have lost his status if he were to reapply as an immigrant. Such an applicant would have difficulty in demonstrating an intention of abandoning Canada pursuant to A24(1)(a) or A24(2). The applicant would have to show an officer or adjudicator that loss of status by deemed abandonment has occurred. As well, the person would have no guarantee of the acceptance of his application in the new category.

It is unlikely that an investor would wish to change category to an entrepreneur. Prior to visa issuance, an investor's capital is locked in for a period of time. Changing category, even if it were allowed, would not negate the financial agreement. The investor would be subject to the requirements of both programs.

4.7 Early admission

If a person's presence in Canada is urgently required prior to the finalization of the admission procedures, you may issue a Minister's Permit (refer to chapter OP 19). The urgency of the applicant's presence should relate to the creation or possible loss of jobs for Canadian citizens or permanent residents. Only consider a permit if you are satisfied that the person has both the intent and the ability to comply with all the requirements of the entrepreneur program.

The permit should be issued only for the period required. Unless there are reasons to preclude repeat trips to Canada within the validity of the permit, it should indicate "authorized to leave and reenter Canada".

In cases where provincial officials wish to provide input, you should obtain their views before deciding to issue a permit. You should also consult these officials before deciding to renew a permit.

4.8 Terms and conditions

Terms and conditions enable immigration officers to track and monitor entrepreneurs and ensure that dependants are subject to the same enforcement measures as the principal applicant. The application of terms and conditions involves two steps. The first is at the visa office and the second is at the port of entry.

Approved entrepreneurs are subject to the terms and conditions that applied on the date their application was received at the visa office.

Under Bill C–86, you must recommend that the terms and conditions specified in R23.1(1)(a) to (d) be imposed on all entrepreneurs and their dependants at the port of entry. You may recommend additional terms and conditions, such as the need to report for medical surveillance.

Ensure that the entrepreneur fully understands and accepts these requirements.

Your recommendation is documented in Box 43 on the IMM 1000, "Conditions of landing imposed". Given the limited space on the IMM 1000, the terms and conditions specified in R23.1(1)(a) to (d) are provided in full on an "Attachment to Record of Landing". You must include two copies of the attachment with the visa of each entrepreneur or dependant. (The attachment is not a controlled document, therefore photocopies would be acceptable.)

Failure to complete Box 43 may result in no terms and conditions being imposed at the port of entry. Failure to include the attachment may have the same result. The immigrant could argue that the terms and conditions were not properly set out and explained and that, therefore, they were not imposed according to the Act.

Counsel successful applicants regarding the landing process and to present both copies of the attachment with their visa at the port of entry.

Include one copy of the "Entrepreneur Counselling and Monitoring Guide" with the visa of each principal applicant. Ensure the entrepreneur receives a copy. See a copy of the guide in APPENDIX C.

This guide includes the "Attachment to Record of Landing" and explains how entrepreneurs may fulfil the terms and conditions that will be imposed at the port of entry. It also contains the mail–in card required to satisfy the first reporting requirement. It provides the list of regional business immigration coordinators where the entrepreneur must send his mail–in card within six months from his date of landing. Other useful material is the list of provincial business contacts, and the "Application to vary or cancel terms and conditions".

The immigration officer at the port of entry is responsible for imposing the terms and conditions at time of landing. The officer is legally required to evaluate the written terms and conditions as they are imposed in Box 43 on the actual IMM 1000, or on the Attachment to Record of Landing, whichever is applicable.

At time of landing, the entrepreneur and dependants will complete and sign the declaration on the IMM 1000 (Box 44) and both copies of the attachment. The principal applicant or spouse will be required to complete the attachment on behalf of dependants under age 19. The

officer will sign both copies and insert the landing date on the IMM 1000 (Box 45). The immigrant will retain one copy of the attachment. The officer will forward the other to Program Data, NHQ, along with a copy of the IMM 1000 .

The officer at the port of entry may also impose additional terms and conditions under R23(1). Dependants are not bound by the principal applicant's compliance with the medical condition that may be imposed under R3(1)(a).

4.9 Entrepreneurs destined to Quebec

The Quebec Business Immigration Program is described in APPENDIX G.

Entrepreneurs destined to Quebec are selected by Quebec Immigration officials and must obtain a Quebec certificate of selection (CSQ) before you consider their application.

If there are no outward signs of a statutory refusal, particularly criminal, or perhaps related to security, medical, or relationship, the interview should be waived.

A14(6) and (7) enable the province of Quebec to impose terms and conditions on entrepreneurs. This must be not later than at the time of landing. Although the province may be applying its own terms and conditions, it has not yet finalized its regulations.

The terms and conditions specified in R23.1(1)(a) to (d) apply to immigrants destined to any of the provinces or territories including Quebec. You must attach two copies of the form "Attachment to Record of Landing" to all visas issued to Quebec–destined entrepreneurs and their dependants.

Once the entrepreneur arrives in Quebec, he or she will make a first report at the nearest Canada Immigration Centre, as in the case of entrepreneurs in the other provinces. The second and subsequent reports will be to the MAIICCQ in Montreal.

4.10 Completing the IMM 1000

The Immigrant visa and Record of Landing (IMM 1000) is the cornerstone of the entrepreneur program. This document provides status for the immigrant, identifies the immigrant as a participant in the entrepreneur program and defines the responsibilities of the immigrant with respect to compliance as stated in the imposed terms and conditions.

Use one of the following codes and text to recommend the imposition of terms and conditions. Insert them in Box 43 of the IMM 1000 for the principal applicant and all dependants:

- **Entrepreneur terms and conditions only**

  Code 70 – "Terms and conditions provided for in paragraphs 23.1(1)(a) to (d) of the *Immigration Regulations, 1978*, as set out in the attachment to this form"; or

- **Entrepreneur terms and conditions plus medical surveillance**

  Code 72 – "Terms and conditions provided for in paragraphs 23.1(1)(a) to (d) and R23(1)(a) of the *Immigration Regulations, 1978*, as set out in the attachment to this form."

Note that codes 40, 42, 60 and 62 were cancelled effective January 31, 1993.

CAIPS automatically generates and prints the appropriate code and text for EN cases. However, CAIPS does not automatically generate the attachment that constitutes part of the Record of Landing. This could be produced through the CAIPS form letter module. A user would have to request it to be printed.

Verify that all information on the IMM 1000 is complete and accurate. Pay particular attention to Box 13 (family status), Box 14 (dependants) and Box 19 (immigrant category). The information you provide on the IMM 1000 becomes a part of the entrepreneur's file at the inland office.

Ensure that a complete Canadian address is included on the IMM 1000 (in Box 39 "Remarks" or in Box 15 "Person willing to assist"). If necessary, request the entrepreneur to provide a contact address in Canada for a friend, relative, lawyer, consultant, accountant or bank manager. This will assist inland offices in tracing the entrepreneur in cases where no mailing card (listing a residential address) is received.

In CAIPS, the address entered on the file creation screen will print in Box 15 of all the IMM 1000's printed on the case. Where possible, avoid using a P.O. Box address in this field.

Enter the correct Standard Industrial Classification (SIC) code on the IMM 1000. Statistics are maintained at NHQ on the numbers of entrepreneurs destined to each business sector. NHQ may make comparisons of the intended sector and the actual sector in which the business is eventually established.

4.11 Notification of visa issuance

The IMM 8 allows the visa office to release certain types of information to the appropriate government authorities of the province or territory of destination. Refer to the "Authority to disclose personal information" on the last page of the IMM 8. This assists the recipient province in evaluating the applicant's suitability for admission, for monitoring terms and conditions, or for other reasons under the legislation.

Requests for information from the provinces and territories should be accommodated, subject to the provisions of the *Privacy Act* and *Access to Information Act*. For a discussion of these Acts, see OP 1. For a description of the provincial requests, see APPENDIX F".

Most provinces and territories wish to be kept informed of visas issued to business immigrants destined to their area.

Some provinces and territories may also request a copy of the IMM 1000, IMM 8, Personal Worth Statement or Business Applicant Summary. As well, some ask for entrepreneurs' overseas address and for a contact address in Canada. This information may help them to assist and monitor entrepreneurs before and after arrival.

It is not necessary to provide a copy of the IMM 1000 to the RHQ of destination. This will be done by the Query Response Centre at NHQ on a regular basis.

4.12 Refusals

Refusals of entrepreneurs do not generally result from a failure to pass on points. Entrepreneurs are most often refused on failure to meet the entrepreneur definition, or on statutory grounds. Unless a business class applicant is refused on medical, criminal or security grounds, refusal will be based on inability to meet the regulatory definition.

It is suggested that you record such refusals by awarding zero bonus points. The bonus points column would read "00" on the Immigrant Assessment Record (IAR). For an entrepreneur or investor applicant, this recognizes the applicant's failure to meet the definition despite obtaining the required minimum 25 units of assessment. For a self–employed applicant, this recognizes an officer's opinion that the applicant will not be able to become successfully established in his or her occupation or business in Canada as required per R8(4).

A business class applicant may also fail because the applicant does not have at least one year of pertinent experience. Allowing no units for experience on the IAR means that the applicant was unable to demonstrate that his or her qualifications and background meet the "ability" requirements of the definition. As for independent applicants, zero experience constitutes an automatic bar.

A person who applies as a business immigrant is assessed in that category and accepted or refused based on that assessment. You are not required to assess a failed business applicant as a skilled worker.

The refusal letter must clearly state all the reasons for refusal in detail. A sample refusal letter is given in APPENDIX D.

Where information is presented that should have been disclosed at interview and might have at that time led to a positive decision, you should invite the applicant (in the absence of special circumstances) to submit a new application and pay a new cost recovery fee.

4.13 File retention and disposal

Refer to the retention and disposal schedule of immigration case files for a complete list of the statutory retention periods. The records of successful entrepreneurs must be retained for three years from the date of visa issuance. Records of refused applicants must be retained five years from the date of final disposition. Files of applicants who may have been involved in war crimes or crimes against humanity must be sent to National Archives after the five–year retention period. Additionally, all IMM 8 application forms are to be retained for 65 years from date of case finalization. These guidelines apply whether or not CAIPS is used at post.

Regardless of immigration category, CAIPS automatically enters a retirement date of two years. It is the responsibility of the user to change the date to three years for accepted entrepreneurs and five years for refused cases. The possibility of having CAIPS automatically generate a three–year retirement date for EN cases being studied. CAIPS preserves a case, including the case notes, for as long as desired as specified by the retirement date. After a file is retired, the permanent record is the microfiched Record of Landing kept at Query Response Centre and the IMM 8 kept at post.

All records including IMM 8 application forms may be kept on microfilm instead of paper format for the statutory period. The only exception are files of applicants who may have been involved in war crimes or crimes against humanity, which must not be microfilmed. There is no impediment to microfilming files immediately upon finalization. Microfilmed records are admissible in Court proceedings under Section 31 of the *Canada Evidence Act*. More information with regard to microfilming is given in chapter OP 1.

Routine and statutory documentation contained in paper files should be managed as described in the Thin File Policy. Such documentation may generally be discarded much sooner than the application form, as a result of CAIPS streamlining. For more detail on the Thin File Policy, see chapter OP 1.

You should make your microfilmed or CAIPS records available to inland offices upon request, subject to the *Privacy Act*. Information from the visa office may assist in determining whether there has been any misrepresentation on the application for permanent residence. R24(1)(d) gives inland officers the authority to gather the information they deem necessary for the purpose of assessing an "Application to vary or cancel terms and conditions of landing". The officer may also require information when contemplating enforcement action against an entrepreneur for non–compliance with terms and conditions imposed.

The courts have determined that the information provided by an immigrant to a visa officer survives that immigrant's landing. The immigrant can be required to fulfil his or her declarations. The declarations form the basis on which the immigrant was selected in the first place.

The Business Immigration Division at NHQ has access to a CAIPS terminal. The Division will review CAIPS case notes from time to time, following contact with a province or a mission. This will assist NHQ to monitor entrepreneurs who fail to meet their terms and conditions.

Immigrant visa logs produced by the CAIPS who night jobs should be kept at the mission indefinitely, in the same way the IMM 1334 ("Immigrant visa control log") is used at non–Caips posts. The logs provide an audit trail in accounting for the use of key control forms and can assist in checking cost recoveries. Generic Visa (i.e., visitor visa) registers should be kept for three years. These points are discussed in the 1994 Key Document Management Handbook.

4.14 Monitoring

An entrepreneur is expected to comply with his terms and conditions within two years of the date of landing. The first reporting requirement is to submit the mail–in card within six months of the date of landing. The entrepreneur must also report between 6 to 12, 12 to 18, and 18 to 24 months from the date of landing.

Although monitoring takes place in Canada, you can assist the monitoring process in the following ways:

- by recommending that terms and conditions of landing be imposed on all entrepreneurs and their dependants;
- by counselling the entrepreneur to ensure that the applicant fully understands and accepts the terms and conditions that will be imposed;
- by providing the "Attachment to Record of Landing" to the entrepreneur (or in its absence, the complete wording of the terms and conditions);
- by ensuring that the recommendation of terms and conditions is properly made on the IMM 1000 (Box 43);
- by verifying that all information on the IMM 1000 is complete and accurate;
- by ensuring that a complete Canadian address is included on the IMM 1000;

- by entering the correct Standard Industrial Classification (SIC) code on the IMM 1000;
- by providing the "Entrepreneur Counselling and Monitoring Guide" to the entrepreneur;
- by facilitating requests for information from the provinces and territories, subject to the *Privacy Act* and *Access to Information Act*;
- by ensuring that cases are fully documented in CAIPS notes; and
- by making CAIPS notes and microfilmed records available to inland offices upon request.

At the inland office, information from the IMM 1000 is entered into the data base. The data base used since 1990 is the Entrepreneur Monitoring Information System (EMIS).

EMIS is the principal tool used by inland officers to identify entrepreneurs who require monitoring. It contains data from the Immigrant Data System Overseas (IDSO) and from the Landed Immigrant Data System (LIDS). It also has data on the monitoring of entrepreneurs, gathered by Canada Immigration Centres, the regions or the provinces and forwarded to NHQ.

EMIS is installed at NHQ and in most regions. EMIS records are created either at the Canada Immigration Centres or by the EMIS coordinator at NHQ. Records are created or updated from information provided on the mail–in card, the "Entrepreneur Monitoring Checklist" and from other evidence of efforts to comply obtained during monitoring.

EMIS produces a number of reports to identify and track entrepreneur principal applicants and their progress in meeting their terms and conditions. Three Regional Summary Reports are used for this purpose.

The Part I report provides a list of all new landings with terms and conditions during the specified time frame according to the entrepreneur's intended city and province of destination.

The Part II report identifies entrepreneurs who require monitoring in a region. It lists entrepreneurs for whom the statutory period has not yet expired and for whom a final disposition has not been taken. EMIS uses the identifier code in Box 43 of the IMM 1000 ("Conditions of landing imposed") to classify entrepreneurs. The actual wording in Box 43 determines the legal terms and conditions imposed.

The Part III report identifies entrepreneurs with outstanding terms and condition. It includes entrepreneurs for whom the statutory two–year time period has expired and a final disposition has not been entered into EMIS. Client information contained in this report is exchanged with Citizenship on a quarterly basis in order to determine if Citizenship has been granted.

The Business Immigration Division at NHQ is preparing a pilot project based on EMIS data entered across Canada. Each visa post would receive a progress report on all entrepreneur principal applicants for whom they issued a visa during a specified time frame. For comparison purposes, totals for all posts would also be given. If this pilot project proves successful, progress reports will be provided on an annual basis.

PROCESSING SELF–EMPLOYED IMMIGRANTS

5. ASSESSING ELIGIBILITY

5.1 Definition of self–employed person

In order to be approved as a self–employed person, the applicant must first meet the regulatory definition, and then comply with the selection criteria for that category of immigrant. Most applicants are selected or refused because they meet, or fail to meet, the definition.

You may consider a number of factors in deciding if the individual meets the definition of a self–employed person. The following aspects of the regulatory definition should be factored into your assessment of an immigrant (1.3 refers):

- who intends and has the ability...
- to establish or purchase a business in Canada...
- that will create an employment opportunity for himself...
- and will make a significant contribution to the economy or the cultural or artistic life of Canada.

Each of these aspects is examined separately below. The onus is on the applicant to document his or her qualities and skills.

The following are among the points to consider in your assessment of an applicant's **intent and ability** to do business in Canada. A person's experience or past success in business may be strong indicators of ability to establish a business in Canada. Hands on experience in management may also be an excellent measure of ability.

Though a minimum of one year of work experience (or equivalent) is required, previous self–employment is not a pre–requisite. If the person intends to operate or purchase a business on his own, however, previous self–employed experience would strengthen the application.

The program should not be a means of circumventing the normal requirements for independent immigrants. If the person has always worked for others in his trade, profession or craft, the individual may have difficulty in showing ability to establish a business in Canada.

A person's financial assets may also be a measure of intent and ability to do business in Canada. There is no minimum investment level for a self–employed person. The capital required depends on the nature of the business. The applicant must have sufficient funds to create an employment opportunity for himself and maintain himself and his dependants. He must show you that he has been able to support himself and family through his talents and would be likely to continue to do so in Canada. This includes the ability to be self–supporting until his employment opportunity has been created.

The terms **establishment of a business, purchase of a business**, and **employment opportunity** should be interpreted as for entrepreneurs.

Contract work does not fall within the scope of the program if it results in an employer–employee relationship. Many salespeople may work independently as agents or representatives of companies, earning a direct commission for each sale made. If they represent one company, they may in effect be in an employer–employee relationship.

Musicians or professors who provide their services to one company or institution may not qualify if this amounts to an employment contract.

A professional may qualify as a self–employed person if he intends to practice his profession in Canada as a business. An example would be a medical doctor operating a clinic. The application should not be approved until the person has complied with the registration or licensing requirements in effect in the area of destination. Registration or licensing may be necessary to demonstrate an ability to operate a professional practice in Canada.

A professional may also qualify as a self–employed person in a field unrelated to his profession. The business must have some prospects of continuity.

Farmers may fall within the self–employed category when they purchase a farm as a family business. Farmers often create employment opportunities for others as a result of their operation, especially at planting and harvest time. An applicant planning to set up a large scale or highly technical farm, such as poultry farm, may match the profile of an entrepreneur in addition to that of a self–employed person. Such an applicant may choose to apply in either category.

An applicant who wishes to practice a trade or a craft in Canada may well qualify both as a self–employed person and as a skilled worker. The person must be assessed in the category in which he has applied.

There are no specific determinants of **significant contribution** for a self–employed person. The business should contribute in more than a temporary and marginal way to the economy or the cultural or artistic life of one of Canada's communities, provinces or territories. A business purchased as a short term measure ("flipping a business") may be unable to satisfy the requirement of a "significant contribution".

You should consider an applicant's contribution to any of the two streams of self–employed: those who are primarily contributing to the economy, and those to the cultural or artistic life of Canada.

To qualify because of a **significant contribution to the economy**, the applicant's proposed business must make a specific contribution to the area of destination. This could be a specialized trade or service that is not readily available from a Canadian source. This category may attract, for example, farmers or potential operators of small businesses which could find niches in Canada's existing system.

To qualify because of a **significant contribution to the cultural or artistic life of Canada**, the applicant must plan to make a significant contribution in the cultural or artistic field. The category is designed to attract such persons as artists, performers or sports personalities. An example may be a craftsperson who produces and sells his craft. Another could be an athlete who teaches or trains people in the skills of his sport.

Some provinces or territories may have special guidelines for self–employed persons in specific occupations (refer to their guidelines in APPENDIX F).

5.2 Selection criteria

If you are satisfied that an applicant meets the definition of a self–employed person, the applicant is assessed on a modified version of the point system. Eight of the nine factors in the selection criteria set out in Schedule 1 of the Regulations are assessed.

A self–employed applicant requires at least 70 units of assessment for approval of an application, out of a possible total of 127. This includes a bonus of 30 units of assessment if in your opinion, the applicant will be able to become successfully established in his or her occupation or business in Canada.

SELECTION CRITERIA – SELF–EMPLOYED PERSON

FACTORS ASSESSED	MAXIMUM UNITS
Education	16
Specific Vocational Preparation	18
Experience	8
Occupational Demand	10
Arranged Employment/Designated Occupation	N/A
Demographic Factor	10
Age	10
Knowledge of English and French Languages	15
Personal Suitability	10
Self–employed bonus	30
TOTAL UNITS REQUIRED	**70**

Note: Quebec immigration officers use a modified version of this criteria.

In accordance with R8(1)(b), an applicant is not assessed under the Arranged Employment/Designated Occupation factor. Because the self–employed person creates his own employment opportunity, it would be inconsistent that he would have arranged employment in Canada.

The applicant is assessed under the occupational demand factor. The pertinent Canadian Classification and Dictionary of Occupations (CCDO) code is used. Per R11(2)(a), however, the applicant is not required to obtain at least one unit of assessment for occupational demand.

A self–employed person may not have a nil score under the experience factor. Pursuant to R11(1) a visa officer shall not issue an immigrant visa to an applicant who is not awarded any units of assessment for experience unless he or she has arranged employment or is prepared to engage in employment in a designated occupation. In order to pass paper screening, the self–employed person requires at least one unit for experience as set out in item 3 of Schedule 1 of the Regulations. You must assess the applicant for experience in the occupation that he or she is qualified for and is prepared to follow in Canada.

Pursuant to R11(3) you may issue or refuse an immigrant visa regardless of the units of assessment if, in your opinion, there are good reasons why the units of assessment awarded do not reflect the chances of the immigrant and his or her dependants of becoming successfully established in Canada, in the economic sense.

An applicant must satisfy you that he or she has the ability to establish a business in Canada. If the applicant is in your opinion able to do this without experience, it would be appropriate to exercise discretion pursuant to R11(3).

5.3 Documentation

Self–employed applicants should show a realistic plan of action and a good understanding of the market conditions in Canada. It may be useful for these applicants to submit a Personal Worth Statement or Business Applicant Summary with their application (see APPENDIX A and APPENDIX B). Submission of a formal business proposal, however, is discouraged.

Documentation should provide evidence of the applicant's financial position and previous employment or experience.

For immigrants who apply based on their potential to make a significant contribution to Canada's economy, you should review the person's management skills, business ability and financial assets, as well as the person's past record in business.

For persons who apply on the basis that they will make a significant contribution to the artistic or cultural life of Canada, you should assess the significance of their contribution and their capacity to support themselves from their special talents.

5.4 Specific procedures

Most procedures that apply to entrepreneurs also apply to self–employed persons.

You should encourage prospective self–employed persons, and farmers in particular, to make an exploratory visit to Canada before applying for permanent residence. Several provinces and territories encourage this practice, although they may provide fewer counselling services to self–employed persons than to entrepreneurs. Refer to the provincial and territorial guidelines for more details (APPENDIX F).

You should ensure that the information package given to a prospective applicant includes clear information on what supporting documentation you will require to assess an applicant's ability to meet the definition.

Most provinces and territories do not require or expect the referral of any application in the self–employed category. Please consult the provincial guidelines with respect to farmers in particular. Most do not require notification of final dispositions in this category. As for other business applications, you may request comments in specific cases to help you to reach a decision.

Quebec immigration officials are responsible for the selection of self–employed persons destined to Quebec, as for entrepreneurs.

There are currently no provisions in the *Regulations* to impose terms and conditions on self–employed applicants.

Most unsuccessful self–employed applicants are refused because of inability to meet the regulatory definition. You should record such refusals by awarding the applicant zero bonus points on the Immigrant Assessment Record (IAR). This reflects your opinion that the applicant will not be able to become successfully established in his or her occupation or business in Canada as required under R8(4).

A self–employed applicant may be refused because he or she does not have one year of pertinent experience. Allowing no units for experience on the IAR recognizes an opinion that the applicant lacks the intent and ability to do business in Canada as required under R8(4).

A person who applies as a self–employed person should be assessed in that category and accepted or refused based on that assessment. You are not required to assess a failed business applicant as a skilled worker. Do not change the category of an applicant (e.g., to an entrepreneur) unless so requested by the applicant.

The refusal letter must clearly state all the reasons for refusal in detail. A sample refusal letter is given in APPENDIX E.

File retention and disposal requirements differ slightly from entrepreneurs. The records of successful self–employed persons must be retained for two years from the date of visa issuance (as opposed to three years for entrepreneurs).

There is currently no system in place to monitor self–employed persons in Canada.

APPENDIX A
PERSONAL WORTH STATEMENT

A complete and current statement of your total personal worth is required. All assets and liabilities, whether located in _____ (country) or elsewhere, should be identified. However, do not include personal items such as jewelry, furniture, etc., due to the difficulty of verifying the ownership of such items.

All assets listed must be your own **personal** holdings, and must be documented. The **sources** of any funds or assets in your possession for less than one year should be identified.

We request and require complete information so that we can better assess your financial background and standing, your personal history, and your experience. This information will be used as a gauge of your ability to meet the requirements of the *Canada Immigration Act and Regulations* as it applies to applicants in the Entrepreneur, Investor or Self–Employed categories as therein defined.

You may be asked to present financial documents to support the information entered onto this statement.

In accordance with the *Privacy Act* legislation, information presented for immigration purposes cannot be disclosed to Revenue Canada. The *Privacy Act* also restricts release of information to other agencies.

Thank you for your co–operation.

ASSETS

A. **Bank deposits**

Current and Savings Accounts (specify currency)			**Fixed deposits** (specify currency)		
Date opened	*Account number*	*Current balance*	*Date of initial deposit*	*Maturity date*	*Current balance*
Exch. rate:	(1) Total Cdn $		Exch.rate:	(2) Total Cdn $	

B. **Property**

Complete address	*Year purchased*	*Mortgage YES NO*	*Purchase price*	*Estimated current market value*
			(3) Total Cdn $	

C. **Publicly–traded stocks and other passive investments**

Description	*Quantity*	*Estimated current market value*
	4) Total Cdn $	

D. **Canadian Investment Fund (Investor applicants only)**

Name of Fund	*Date purchased*	*Amount currently invested*
	5) Total Cdn $	

E. **Business** – specify currency

Name	*Percent owned*	*Current book value (Net assets)*	*Estimated current market value*
		(6) Total Cdn $	

F. **Pension, Provident Fund and other assets – Specify currency**

Description	*Amount*
(7) Total Cdn $	

LIABILITIES

G. **Mortgages** – Specify currency

Complete Address	*Mortgaged Amount*
(8) Total Cdn $	

H. **Personal Debts (e.g. Shareholder/Director's loan, child support, alimony)** – Specify currency

Nature of Obligation	*Amount*
(9) Total Cdn $	

NET WORTH

Total assets:

(1) + (2) + (3) + (4) + (5) + (6) + (7) = Cdn $ _____

Less Total Liabilities:

(8) + (9) = Cdn $ _____

Equals Net Worth Cdn $ _____

Which is distributed as follows:

Funds to accompany me to Canada	
Funds to transfer to Canada at a later date	
Funds already in Canada	
Funds remaining abroad	
Total Cdn $	

Exchange Rate Used: Cdn $1 = _____

I certify that the above is a complete and true statement of my personal worth, and that this relates specifically to the requirements outlined in the Application for Permanent Residence in Canada (IMM 8).

Date _____ Signature: _____

APPENDIX B
BUSINESS APPLICANT SUMMARY

If you are applying for permanent residence as an investor, entrepreneur, or self–employed person, the following Business Applicant Summary must be completed. It is important that you complete this form fully and accurately, as it is an important tool in our assessment process. Do not include attachments or additional documents. Original supporting documents may be required later.

PART I

1. Name: _____
2. Date of Birth: _____
3. Category of Application – Check one:
   a) Entrepreneur _____
   b) Self–employed _____
   c) i) Investor _____
      ii) Name of investment project fund, if known
      _____
      iii) Amount of investment to be made C$
      _____

PART II

EXPERIENCE IN BUSINESS MANAGEMENT

1. On this page tell us, in your own words, about your past and present business management experience. Please include details as to how you started out, the type or nature of businesses in which you have been involved, giving specific details of your responsibilities and duties within the company(ies). Specify your percentage of ownership, if any. Should you require more space than is provided to detail your business experience, you may attach an additional page. (Approximately 1 page)

PART III

YOUR BUSINESS PLAN

To be completed by Entrepreneur and Self–employed Applicants

1. Have you decided upon a specific business venture? Yes _____ No _____
   a) If yes, please provide details in the space below of the location, type of business, number of employees, amount of capital to be invested, activities of the company and your position and responsibilities. (Approximately 1/2 page)
   b) If no, please tell us in your own words in the space below of your plans. Please identify the sector in which you plan to be involved, if known, the amount of capital you have available for investment and outline the nature of the business you plan to establish. (Approximately 1/2 page)

PART IV

1. If your business activity in Canada will not be a sole proprietorship, please indicate your percentage ownership and the share of ownership of the remaining partners. Identify those partners who are not Canadian citizens or permanent residents.

   Name: _____ DOB: _____

   Name: _____ DOB: _____

2. What steps have you undertaken to research the Canadian business environment to increase the likelihood of success of your plans? (Approximately 1/3 page)

3. Have you ever been involved in a business failure or been associated with a company that went into liquidation, receivership or bankruptcy?

   Yes _____ No _____. If yes, give details.

4. Please detail any formal specialized business training or education you have undertaken. (Approximately 1/3 page)

PART V

I understand that the information provided by me in this Business Application Summary will form the basis of the assessment of my eligibility for admission as a business immigrant. I hereby declare that the information I have given in this summary is truthful, complete and correct and that it has been personally provided by me.

Date: _____

Signature: _____

Witness: _____

This Business Applicant Summary has been prepared by _____

on the basis of information provided to me, personally by _____.

Date: _____

Signature: _____

Interpreter Declaration

I, _____, do solemnly declare that I have faithfully and accurately interpreted in the _____ language the content of this application and any related forms as duly completed with respect to _____, as well as the disclose personal information and solemn declaration, to the person concerned, I have been informed by the person concerned, and I do verily believe, that he/she completely understands the nature and effect of these forms, and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Signature of Interpreter: _____ Date: _____

APPENDIX B – ANNEX 1

BUSINESS OWNERSHIP/PERFORMANCE SUMMARY

(please complete one form per business)

Name of business _____

Type of ownership (complete in full)

If sole proprietorship, date you became registered owner of the business:_____

If partnership, identify partner and % of ownership (if more than three partners please use a separate sheet of paper.)

(1) _____ %

(2) _____ %

(3) _____ %

If Limited Company, identify directors and % shareholding

(if more than three directors please use a separate sheet of paper.)

(1) _____ %

(2) _____ %

(3) _____ %

Year (please identify year and currency)	*Turnover*	*Net profit*	*Loss carried over*	*Asses–sable profits*	*No. of full–time employees*
Most recent operating year (e.g. 1995–96)					
Previous year 1 (e.g. 1994–95)					
Previous year 2 (e.g. 1993–94)					
Previous year 3 (e.g. 1992–93)					

Exchange Rate Used: Cdn $1 = _____

APPENDIX C
THE ENTREPRENEUR COUNSELLING AND MONITORING GUIDE

Forms Enclosed

Mail–In Card
Entrepreneur Monitoring Reports (one form per reporting period)
Application to Vary or Cancel Terms and Conditions of Landing
Change of Address–Information Notice

1. INTRODUCTION

- Canada welcomes successful business people seeking new opportunities and challenges. This document explains how you can meet the **Terms and Conditions** imposed on you as an Entrepreneur under the Business Immigration Program.

WHAT ARE THE TERMS AND CONDITIONS IMPOSED UPON MY ADMISSION TO CANADA?

As an entrepreneur, you and your accompanying dependants must comply with the following terms and conditions imposed upon your landing in Canada:

- Establish, purchase or make a substantial investment in a business or commercial venture that makes a significant contribution to the Canadian economy.
- Create or continue employment for one or more Canadian citizens or permanent residents, other than the entrepreneur and the entrepreneur's dependants.
- Participate actively, and on an on–going basis, in the management of the business or commercial venture in Canada.
- At regular intervals, furnish evidence of efforts to comply with the terms and conditions imposed.
- Send the Mail–In Card (IMM 5215) to the Business Immigration Regional Coordinator of Citizenship and Immigration of the province or territory in which you live within the period between your date of landing and six months from that date; and
- Report to the nearest Canada Immigration Office, or any other place or places specified in writing by an Immigration Officer, at least once within each of the following periods:
  - between six and twelve months from your date of landing;
  - between twelve and eighteen months from your date of landing;
  - between eighteen and twenty–four months from your date of landing.
- Furnish evidence that the terms and conditions have been satisfied within a period of not more than two years after landing.

HOW CAN I SATISFY THE REPORTING REQUIREMENTS IMPOSED WITH MY TERMS AND CONDITIONS?

Remember that you must provide evidence of your efforts to comply with these terms and conditions. You do this by reporting your progress to the nearest local Canada Immigration Office or any other place designated by an immigration officer. At any time during your monitoring, you may be asked to provide additional information or supporting documentation. Make sure that you comply with the reporting deadlines which are outlined in your Attachment to the Record of Landing.

2. HOW TO COMPLETE THE MAIL–IN CARD

STEP 1 – The First Report Period (0–6 Months)

Within six months of landing in Canada, you must send your Mail–In Card to a Business Immigration Regional Coordinator. The card should be sent as soon as you have set up a residence in your province of destination. APPENDIX C – ANNEX 2 lists Business Immigration Regional Coordinators.

If you require any further information, or want additional counselling, please note your specific request with your Mail–In Card.

This document includes instructions on how to complete the Mail–In Card.

STEP 2 – Entrepreneur Monitoring Report Periods (6–12, 12–18, and 18–24 Months)

You will find Entrepreneur Monitoring Reports enclosed for each reporting period. Complete and mail each report, within the specified time, to the nearest local Canada Immigration Office or any other place designated by an immigration officer. Include any additional information you wish considered.

Instructions on how to complete the Entrepreneur Monitoring Reports are provided in this guide.

HOW TO SET UP YOUR BUSINESS: PROGRAMS AND SERVICES ACCESSIBLE TO ENTREPRENEURS

Now that you have arrived in Canada, you may want business information from organizations that specialize in providing guidance and counselling on business matters.

Provincial Business Contacts

Provincial Business Contacts have established programs specifically designed to assist you in understanding the new business environment you are now entering. Provinces take an active role in providing information sessions and individual counselling interviews. Provincial representatives may also provide opinions to federal Immigration officials on the entrepreneur's business, including whether it has made a significant contribution to the economy and other aspects of the entrepreneur's compliance with terms and conditions. In Quebec, the entrepreneur monitoring function is shared with provincial officials. (APPENDIX C – ANNEX 3 lists Provincial Immigration Contacts.)

Federal Business Development Bank

The Federal Business Development Bank is a Crown Corporation which promotes the creation and development of business by providing a range of financial and management services to small and medium–sized businesses around the country.

Industry Canada

Industry Canada has information products, programs and expertise which may assist you in your business goals.

Local Chambers of Commerce

Local Chambers of Commerce in your area of residence may provide you with guidance and counselling specific to your local business environment.

I HAVE MET MY TERMS AND CONDITIONS: HOW CAN I HAVE THEM CANCELLED?

If, at any time within two years from your date of landing, you believe you have fully satisfied your terms and conditions:

- Complete an Application to Vary or Cancel Terms and Conditions of Landing;
- Complete the appropriate Monitoring Report; (if applicable)
- Provide supporting documents; and
- Mail this information to your local Immigration office or any other place designated by the immigration officer.

An immigration officer will review the application and is required to approve or refuse your request. You will be advised of the officer's decision.

WHAT IF I AM UNABLE TO MEET THESE TERMS AND CONDITIONS?

You are required to establish a business which satisfies the imposed terms and conditions within the two–year period of your landing in Canada. If you do not meet these terms and conditions, enforcement action could lead to you and your dependants being removed from Canada.

If you are experiencing difficulties meeting your terms and conditions, contact your local Canada Immigration Office as well as your provincial immigration contact. You must clearly show that a genuine effort has been made to satisfy your terms and conditions.

MAIL–IN CARD FOR ENTREPRENEURS (Front)

IMPORTANT: Send this card within 6 months of your date of landing to the Business Immigration Regional Coordinator closest to you. (See APPENDIX B.)

HOW DOES AN ENTREPRENEUR COMPLETE THE MAIL–IN CARD (IMM 5215)?

Read through the instructions provided. These instructions will help you complete this form. You will find a complete sample Mail–In Card for Entrepreneurs for your reference.

MAIL–IN CARD FOR ENTREPRENEURS (Back)

Please bring with ink using block letters when completing the Mail–In Card.

1. **Your name as recorded on your immigrant visa**: Provide your first name followed by your family or last name. Print all names in full. Do not use initials.
2. **Date of birth**: Provide the required information.
3. **Your visa number**: This document serial number is recorded in Box 39 on your Record of Landing. It starts with a "W" followed by a series of 9 digits.
4. **Date of landing**: This date is recorded in Box 45 on your Record of Landing.
5. **Your current address**: Print the complete address of where you are living in Canada. If applicable, include your apartment or unit number. Include your telephone number.
6. **Name of your business, if established**: Print the name and address of your established business. Include your business telephone and fax numbers.
7. **(a) If you plan to move in the next six months, please state your future address**: Provide requested information if available.

   (b) The name, address and telephone number of a person whom we may contact to obtain your new address: Provide the name of your lawyer or consultant, relative, friend or other contact person in Canada.
8. **Please list any other names that you have used in Canada**: Provide any variation to your name that you choose to use.
9. **Your signature**: As the entrepreneur, you must sign and date this section.

Indicate if you would prefer to receive correspondence in English or French.

PLEASE READ ALL INSTRUCTIONS ON THE MAIL–IN CARD CAREFULLY.

3. HOW TO COMPLETE THE ENTREPRENEUR MONITORING REPORTS

The instructions below will help you to complete the Entrepreneur Monitoring Reports which indicate how you are meeting the terms and conditions. (APPENDIX C – ANNEX 1 lists recommended supporting documents.)

IMPORTANT: Please answer all questions on this report. Indicate if a question is not applicable to your case.

Please print with ink using block letters when completing the Monitoring Report. Indicate an "X" in the box which corresponds to your current monitoring period.

Personal information:

Print the required personal information. State the amount of money brought to Canada. Indicate the amount you intend to invest in your business.

Business information:

1. Enter an "X" in one of the boxes as appropriate.

IMPORTANT: If there is no business investment at this time, go directly to question 10 of this report.

2. Provide the required information.
3. Enter an "X" in the box to indicate your response. If you answer yes, complete questions 3(a) through (d).
4. Enter an "X" in the box to indicate your response. If you answer yes, provide the required information.

5. Enter an "X" to indicate your response.
6. Enter an "X" to indicate your response.
7. Provide information regarding ownership in this business.
8. Indicate if this business was purchased from another entrepreneur landed under the Business Immigration Program.
9. Indicate your total investment in your business and provide supporting evidence. State the amount you initially invested in the business. Indicate business profits and losses for this reporting period.
10. Enter an "X" to indicate your response. If yes, provide the required information.
11. Enter an "X" to indicate your response. If yes, provide details of your employment or involvement with this secondary business or employer.
12. Provide the information as requested.
13. Provide information on your efforts to comply with your terms and conditions. Include specific details of your business dealings to date in Canada. Enclose all available evidence that supports your statement.
14. Using APPENDIX C – ANNNEX 1 identify any attachments to your Monitoring Report.

IMPORTANT: Read the declaration and, if you understand, then sign and date your monitoring report.

4. HOW TO COMPLETE AN APPLICATION TO VARY OR CANCEL TERMS AND CONDITIONS OF LANDING?

The following instructions will help you complete this form.

IMPORTANT: This application should be accompanied by the Entrepreneur Monitoring Report applicable to this compliance period.

Please print with ink using block letters when completing the Application to Vary or Cancel Terms and Conditions of Landing.

Part I:

1. Enter "X" in the box that indicates your situation.
2. Enter the day, month, and year in which you were granted landing.
3. Enter you Record of Landing number which starts with a "W" followed by a series of 9 digits. This number is in the remarks section numbered Box 39 on your Immigrant Visa.

Part II: Personal Information

Print the required information.

Part III: Dependants in Canada

List the number of your dependants who are in Canada, as well as the additional information required.

Part IV: Dependants in Canada

Provide details of your dependants who are outside of Canada.

Part V:

Enter "X" in the box that indicates your request.

Please provide the reasons which support your request to vary or cancel the terms and conditions of landing. How have you satisfied the terms and conditions imposed at the time of landing in Canada?

Part VI: Declaration of Applicant

Make sure to read this declaration carefully before signing your application to vary or cancel your terms and conditions.

As the entrepreneur, you must sign this section and provide the date of your signature.

5. SELF–COMPLIANCE CHECKLIST

(for personal use)

Form	*When*	*Mailed?* *Mark an X once mailed*
Mail–In Card	mailed within 0– to 6–months	☐
Monitoring Report 1	mailed within 6– to 12–months	☐
Monitoring Report 2	mailed within 12– to 18–months	☐
Monitoring Report 3	mailed within 18– to 24–month period	☐
Application to Vary or Cancel Terms and Conditions of Landing	sent once an entrepreneur has satisfied terms and conditions and, if applicable, is accompanied by the corresponding monitoring report.	☐
Change of address	sent when any change of residential address in Canada occurs. The form must be mailed to Immigration officials at your local Canada Immigration Office or any other place designated by an Immigration Officer.	☐

APPENDIX C – ANNEX 1
LISTING OF RECOMMENDED SUPPORTING DOCUMENTS

Element	*Criteria*	*Documentation*
Establish a business	Physical location; Generating revenue; Commercial activity; Potential for continued operation	Proof of ownership; Business Licences/Registration; Trade Licences; Incorporation documents; Vendor's Permits; Sales tax licences (GST and PST); Receipts and invoices; Photos of location; Financial statements
Purchase a Business	Acquiring ownership of existing business already operating	All of the above plus: Proof of sale; Purchase agreement; Share transfers
Substantial Investment	Degree of control	Financial statements; Percentage of voting shares; Share certificates; Owner's equity; Partnership agreements; Loan/business agreements
Significant Contribution to Economy	Impact on national, provincial or local economies;	Financial statements; Training, contracts and employment records; Written provincial opinion
Employment Opportunity	Maintained/created employment; Duration of employment: • hours of work • full or part–time employment	Payroll documents; Employee registration; Revenue Canada remittance; T–4 Summary & copies of T–4s; Record of Employment (UI); Wages & benefits paid from financial statements
Active and on–going management	Input into management decisions; Involvement in operations	Knowledge of day–to–day operations; Signed business contracts, correspondence, cheques and directives to staff; Partnership agreements; Letters from partners attesting to entrepreneur's roles and responsibilities; Minute–book to verify position title in the business, voting shares, etc.

APPENDIX C – ANNEX 2
BUSINESS IMMIGRATION REGIONAL COORDINATORS

British Columbia/Yukon

Program Specialist, Inland Operations
Citizenship and Immigration Canada
Royal Centre
P.O. Box 11145
1055 West Georgia Street
Vancouver, British Columbia
V6E 2P8

Prairies/NWT

Business Immigration Coordinator
Citizenship and Immigration Canada
400–25 Forks Market Road
Johnston Terminal Building
Winnipeg, Manitoba
R3C 4S9

Ontario

Program Manager
Inland Operations Directorate
Citizenship and Immigration Canada
4900 Yonge Street, Suite 700
North York, Ontario
M2N 6A8

Québec

Regional Entrepreneurial Coordinator
Citizenship and Immigration Canada
1441 St. Urbain Street, 8th Floor
P.O. Box 7500, Station A
Montréal, Québec
H3C 3L4

Atlantic

Business Immigration Coordinator
Citizenship and Immigration Canada
Metropolitan Place, 5th Floor
P.O. Box 1350
99 Wyse Road
Dartmouth, Nova Scotia
B2Y 4B9

APPENDIX C – ANNEX 3
LIST OF PROVINCIAL AND TERRITORIAL IMMIGRATION CONTACTS

Newfoundland

Assistant Deputy Minister
Trade and Investment
Department of Industry, Trade and Technology
P.O. Box 8700
St. John's, Newfoundland
A1B 4J6
Tel.: (709) 729–5680
Fax: (709) 729–3208

Prince Edward Island

Manager, Policy Analysis and Planning
Department of Industry
P.O. Box 2000
Charlottetown, Prince Edward Island
C1A 7N8
Tel.: (902) 368–4265
Fax: (902) 368–4224

Nova Scotia

Manager, Business Immigration
Nova Scotia Economic Renewal Agency
Business Development Corporation
P.O. Box 519
1800 Argyle Street, Suite 601
Halifax, Nova Scotia
B3J 2R7
Tel.: (902) 424–6864
Fax: (902) 424–6823

New Brunswick

Director
Investment and Immigration Department
Economic Development and Tourism
P.O. Box 6000
Fredericton, New Brunswick
E3B 5H1
Tel.: (506) 453–2876
Fax: (506) 444–4277

Québec

Qualité des opérations et de l'aide à
l'immigration d'affaires
Ministère des Affaires internationales, de
l'Immigration et des Communautés culturelles
360, rue McGill, 3e étage
Montréal, Québec
H2Y 2E9
Tel.: (514) 873–2730
Fax: (514) 873–0762

Ontario

Business Immigration Section
Ministry of Economic Development and Trade
Hearst Block, 5th Floor
900 Bay Street
Toronto, Ontario
M7A 2E1
Tel.: (416) 325–6777
Fax: (416) 325–6653

Manitoba

Senior Development Officer
Investment Promotions Branch
Industry, Trade and Tourism
410–155 Carleton Street
Winnipeg, Manitoba
R3C 3H8
Tel.: (204) 945–2401
Fax: (204) 945–1193

Saskatchewan

Manager
Business Immigration Programs
Saskatchewan Economic Development
5th Floor, Office Tower
Ramada Trade and Convention Centre
1919 Saskatchewan Drive
Regina, Saskatchewan
S4P 3V7
Tel.: (306) 787–9212
Fax: (306) 787–3872

Alberta

Director
Immigration Bridging Program
Alberta Career Development and Employment
11th Floor
10155–102nd Street
Edmonton, Alberta
T5J 4L5
Tel.: (403) 422–6236
Fax: (403) 422–9127

British Columbia

Entrepreneur Unit
Business Immigration Branch
Ministry of Employment and Investment
630–999 Canada Place
Vancouver, British Columbia
V6C 3E1
Tel.: (604) 844–1815
Fax: (604) 660–4092

Northwest Territories

Director
Business Services
Department of Economic Development and Tourism
P.O. Box 1320
Yellowknife, Northwest Territories
X1A 2L9
Tel.: (403) 920–3182
Fax: (403) 873–0101

Yukon

Director
Industry and Program development
Department of Economic Development, Mines and Small Business
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6
Tel.: (403) 667–3014
Fax: (403) 667–8601

APPENDIX C – ANNEX 4
ADDRESSES OF LOCAL FEDERAL BUSINESS IMMIGRATION OFFICES RESPONSIBLE FOR BUSINESS IMMIGRATION

Newfoundland

Canada Immigration Office
Building 223, P.O. Box 13667
Pleasantville
St. John's, Newfoundland
A1B 4G1

Prince Edward Island

Canada Immigration Office
85 Fitzroy Street, 2nd Floor
P.O. Box 8000
Charlottetown, Prince Edward Island
C1A 8K1

Nova Scotia

Canada Immigration Office
5657 Spring Garden Road
6th floor
Halifax, Nova Scotia
B3J 3R4

New Brunswick

Canada Immigration Office
615 Prospect Street West
P.O. Box 2600
Fredericton, New Brunswick
E3B 5V6

Québec

Canada Immigration Office
1010, Saint–Antoine ouest
P.O. Box 748, Station A
Montréal, Québec
H3C 2V2

Ontario

Canada Immigration Office
Jackson Square Mall
2 King Street, West
Hamilton, Ontario
L3P 1A1

Canada Immigration Office
1 King Street, West
Kitchener, Ontario
N2G 1A1

Canada Immigration Office
451 Talbot Street, Room 920
London, Ontario
N6A 5C9

Canada Immigration Office
200 Catherine Street
Ottawa, Ontario
K2P 2K9

Canada Immigration Office
55 St. Clair Avenue East, Suite 700
Toronto, Ontario
M4T 1M2

Manitoba

Canada Immigration Office
400–25 Forks Market Road
Johnson Terminal Building
Winnipeg, Manitoba
R3C 4S9

Saskatchewan

Canada Immigration Office
2045 Broad Street
Regina, Saskatchewan
S4P 3T7

Canada Immigration Office
Federal Building
Room 415, 101–22nd East
Saskatoon, Saskatchewan
S7K 0E1

Alberta/NWT

Canada Immigration Office
Harry Hayes Bldg. Room 170
220–4th Avenue South–East
Calgary, Alberta
R2G 4X3

Canada Immigration Office
10032–103rd Street
Edmonton, Alberta
T5J 4K6

British Columbia/Yukon

Canada Immigration Office
1148 Hornby Street
Vancouver, British Columbia
V6Z 2C3

Canada Immigration Office
816 Government Street, Room 377
Victoria, British Columbia
V8W 1W9

APPENDIX D
SAMPLE REFUSAL LETTER – ENTREPRENEUR

This refers to your application for permanent residence in Canada.

I have now completed the assessment of your application and regret to inform you do not qualify for immigration to Canada as entrepreneur.

Section 2(1) of the *Immigration Regulations, 1978*, defines an entrepreneur as an immigrant who intends and has the ability to establish, purchase or make a substantial investment in a business or commercial venture in Canada that will make a significant contribution to the economy and whereby employment opportunities will be created or continued in Canada for one or more Canadian citizens or permanent residents, other than the entrepreneur and his dependants. He must also intend and have the ability to provide active and on–going participation in the management of the business or commercial venture.

In my opinion you do not meet this definition of entrepreneur because (insert reasons).

You therefore come within the inadmissible class of persons described in paragraph 19(2)(d) of the *Immigration Act, 1976*, in that you do not fulfil or comply with the provisions of the Act and the regulations. For these reasons, pursuant to subsection 9(4) of the *Immigration Act*, your application has been refused.

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

Yours sincerely,

Visa Officer

APPENDIX E
SAMPLE REFUSAL LETTER – SELF–EMPLOYED PERSON

This refers to your application for permanent residence in Canada.

I have now completed the assessment of your application. I regret to inform you that you do not qualify for immigration to Canada in the self–employed category.

Section 2(1) of the *Immigration Regulations, 1978*, defines a "self–employed person" as "an immigrant who intends and has the ability to establish or purchase a business in Canada that will create an employment opportunity for himself and will make a significant contribution to the economy or the cultural or artistic life of Canada."

In my opinion you do not meet this definition of "self–employed person" because (insert reasons).

You therefore come within the inadmissible class of persons described in paragraph 19(2)(d) of the *Immigration Act, 1976*, in that you do not fulfil or comply with the provisions of the Act and the regulations. For these reasons, pursuant to subsection 9(4) of the *Immigration Act*, your application has been refused.

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

Yours sincerely,

Visa Officer

APPENDIX F
PROVINCIAL AND TERRITORIAL GUIDELINES FOR ENTREPRENEUR AND SELF–EMPLOYED IMMIGRANTS

NOTE

The information in the following guidelines was updated by provincial and territorial authorities in May 1995. The guidelines show the role each province or territory wishes to assume with respect to Business Immigration Program. As well, they present their views about significant economic benefit and the financial resources that an applicant may need to operate a successful business within their jurisdiction.

Visa officers must consider all available information and make independent decisions pursuant to the *Act* and *Regulations*. The views of provincial or territorial authorities are important and should be taken into account. The final decision rests solely with the visa officer.

In some instances, the provincial guidelines appear to exceed the requirements of the *Act* and *Regulations*. In such cases, the guidelines should be viewed as a reflection of provincial priorities. Applicants may be encouraged to voluntarily comply with them. However, applicants should understand that these are not legal requirements under the immigration legislation.

There is no basis in law to require an entrepreneur to undertake a specific type of business activity in a specific location. An entrepreneur does not require prior approval to set up a particular business. An immigration officer or a provincial official may counsel an entrepreneur about the probability that a particular business will satisfy the terms and conditions of landing.

Visa officers should accommodate provincial and territorial requests for information, subject to the provisions of the *Privacy Act* and *Access to Information Act* (these are discussed in chapter OP 1).

The decision to vary or cancel terms and conditions rests with the immigration officer reviewing the case. The role of the officer is limited to assessing whether an entrepreneur has satisfied the terms and conditions imposed. An assessment is made when the entrepreneur applies to vary or cancel his terms and conditions or when the two year period expires. The final decision rests with the immigration officer.

The Quebec Business Immigration Program is presented separately (APPENDIX G). The Province of Quebec has a particular role in the selection of immigrants who indicate that province as their destination.

NEWFOUNDLAND

See note at the beginning of the guidelines.

Provincial objectives

Newfoundland welcomes applicants in businesses that enhance all economic sectors, e.g., tourism, manufacturing and secondary processing in fisheries sector, and particularly aquaculture. Opportunities for technology transfer and for joint ventures are also sought.

Exploratory visits

Newfoundland officials will meet upon request with persons on an exploratory visit. Officials will also provide information sessions touching on all aspects of life in Newfoundland, arrange for interested immigrants to participate in project site visits as well as meeting with officials of the municipalities involved.

Overseas processing

The province welcomes involvement in the assessment of applications from self–employed and entrepreneur applicants. At a minimum, it requires information from the visa office identifying the applicant and his or her area of business pursuit. The province also wishes to receive updated information on the applicant's home and business address.

The province wishes access to the LIDS program, to foster communication and information sharing.

Notification from visa office

Newfoundland requests a copy of the business applicant summaries for the purpose of counselling the immigrant.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Provincial services and promotional materials

The province provides general counselling and business advice to business immigrants. The province prefers to meet with the individual before the business has been set up. The province recognizes that this is an ongoing role.

Approved entrepreneurs and self–employed applicants have access to all forms of assistance and government services available to qualifying Newfoundland business people.

The province makes the following promotional material available:

- business immigration guidelines for Entrepreneurs
- "The right place for business" (brochure)
- "Newfoundland's new business investment incentives" (brochure)
- Directory of manufacturers
- an array of sector specific periodicals depending on the immigrant's interests.

Monitoring

The province concurs with CIC monitoring procedures. Further, Newfoundland would like to meet with CIC and immigrant during the 6–month "Reporting" meetings.

The province requires information on the location of the business, its volume, employment created and problems encountered. This will enable the province to provide assistance to entrepreneurs where required and to assess the overall impact of the program on the local economy.

NOVA SCOTIA

See note at the beginning of the guidelines.

Provincial objectives

The Province of Nova Scotia considers all business proposals that provide jobs for Nova Scotians.

As to what kind of business to establish, this must remain a personal choice. The type of business chosen in Nova Scotia will depend on the applicant's business and educational background, financial resources, and other personal circumstances.

Priority business sectors

The province is particularly, but not exclusively, interested in growth manufacturing and processing industries, high technology industries, research and development, ocean–related industry, and tourism–related projects. In addition, the Department of Agriculture and Marketing has expressed strong interest in attracting people in the agriculture field to help strengthen this sector.

Exploratory visits

Business applicants are encouraged to contact provincial authorities for a review of their proposal. The Province of Nova Scotia assesses each proposal on a case–by–case basis.

We encourage business immigrants to visit Nova Scotia to check into markets and discuss financial requirements before finalizing their proposal.

The Province of Nova Scotia meets on request with prospective business immigrants who are travelling to the province on an exploratory visit. Meetings can be arranged one week in advance. These one–on–one meetings take place on Thursdays and Fridays and last for approximately thirty minutes. During these

meetings, information and contacts relevant to the person's proposal will be given. This may include any of the pertinent provincial or municipal departments, as well as professional associations. Relevant brochures and publications will also be given to the individual.

Overseas processing

The Province of Nova Scotia wishes to provide comments to the visa office on all business cases. These comments are forthcoming from provincial departments that have expertise in the sector of the proposed business (i.e., tourism, Agriculture, Mines and Energy, etc.). Where the applicant has provided us with their Federal file number, Nova Scotia may make direct representations on their behalf.

Notification from visa office

The Province of Nova Scotia wishes to be notified on all approved business applicants destined to Nova Scotia.

The communication by Canada of personal information remains subject to the Privacy Act.

Contact:

Ms. Frances De Wolfe
Business Analyst
Industrial Promotion Branch
Department of Industry, Trade and Technology
P.O. Box 519
1800 Argyle Street, 6th Floor, Suite 608
Halifax, Nova Scotia B3J 2R7
Tel.: (902) 424–5052
Fax: (902) 424–5739

PRINCE EDWARD ISLAND

See note at the beginning of the guidelines.

Provincial objectives and priority sectors

Prince Edward Island seeks business immigrants who will start, purchase, invest in, expand or maintain a business that is of economic benefit to the province and will lead to the creation of employment. Specifically, the province would like to encourage firms or investment which:

- engage in food processing
- manufacture equipment and supplies for agriculture, fisheries and forestry
- design and produce crafts, e.g. woven, ceramic, pottery and wooden products.
- provide services to offshore industries
- relate to the shipbuilding industry
- produce wool, yarn and woven cloth products
- manufacture and develop high technology products (software and hardware products)
- produce metal rolling, casting and extruding products
- produce light metal products
- complement a major veterinary college
- produce pharmaceutical and health related products (e.g., medical devices, diagnostic kits)
- provide services to senior citizens

Application procedure for applicants to Prince Edward Island

1. Contact the nearest Canadian visa office and discuss business opportunities with the visa officer. An exploratory visit is recommended by the province. One–on–one counselling is offered by provincial authorities to assist applicant.

2. Submit a completed application with all supporting documents to the nearest Canadian visa office. Supporting documentation should include:
   - curriculum vitae, which must include description of industrial, managerial or business experience;
   - a statement of financial resources showing in Canadian dollars the funds available for immediate use and later transfer, as well as proof of ownership of these funds; and
   - a detailed business proposal/farm plan. The business plan, or summary of the applicant's business goals and road map to reach those goals, will include the following elements: date, full name and address, purpose/background of project, project description (proposed facility, products, production process), description of industry (industry outlook and growth potential, markets, competitors, national and economic trends).

The business plan is to be mailed or faxed by applicant to:

Manager, Immigration and Procurement
Enterprise PEI
West Royalty Industrial Park
Charlottetown, PEI Canada
C1E 1B0
Fax: (902) 368–6301

3. Once a submission has been reviewed by a visa officer, the officer may arrange a meeting with the applicant. The officer will determine whether the applicant meets the general selection criteria that indicates the likelihood of establishing successfully on Prince Edward Island. In addition, the officer will decide whether the applicant has expertise, finances and realistic plans to qualify as an entrepreneur or self–employed immigrant.
4. The visa officer will verify the background, request applicant and family to undergo medical examinations and provide any additional documentation to complete the application.
5. Meanwhile, the visa officer will consult with Provincial authorities to ensure that the business proposal/summary complements the Province's objectives for economic development. The Provincial authorities will direct the business proposal/summary to the appropriate department for review and comments.
6. Based on this review, officials of Prince Edward Island will send a letter to the visa office. It could either recommend refusal or acceptance of the application. However, a final decision on whether the applicant is approved rests with the visa office where the application was filed. Presently, the province does not have a role in monitoring terms and conditions of a business immigrant.

NEW BRUNSWICK

See note at the beginning of the guidelines.

Provincial objectives

The province of New Brunswick welcomes business immigrants in the entrepreneur and self–employed categories who will bring experience, expertise, new products, niche markets as well as new investment to the province of New Brunswick.

Priority business sectors

New Brunswick's priority business sectors include:

- Advanced technology or materials
- Building materials, machinery and equipment
- Construction products
- Crafts
- Distribution and warehousing
- Energy sensitive industries

- Farming projects; dairy, pork, potatoes, vegetables
- Head office relocation
- Import substitution
- Medical devices
- Precision machine tooling
- Related health products
- Small to medium size manufacturing ventures
- Telecommunications
- Textiles
- Tourism projects, e.g., restaurants, motels, hotels, camping grounds, tour of attractions
- Transportation sensitive industries
- Value added food and fish products

Exploratory visit

Prospective business immigrants are strongly encouraged to visit the province to meet with departmental officials and to see firsthand what the province has to offer.

The province will offer counselling and assistance during the exploratory visit. Assistance can be offered in identifying business ventures, setting-up procedures, and also with the preparation of the financial assistance applications (if applicable).

Where an applicant identifies the visa office where he is applying, the Province may provide input to the visa office on the project's feasibility.

Overseas processing

New Brunswick does not insist on submission of formal business plans. The applicant should, however, satisfy the visa officer of a general plan of action which clearly demonstrates a good understanding of the market to be entered.

The province will provide input to the visa office on specific cases when requested.

Notification from visa office

New Brunswick expects to be informed of all applicants destined to the province once an immigrant visa has been issued. Posts should also forward the Business Applicant Summary.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Promotional materials

Brochures and other promotional material on the Province are available in English, French, German and Chinese:

- A descriptive brochure on the province of New Brunswick
- "New Brunswick, Canada: Open for Business" brochure
- New Brunswick Directory of Products and Manufacturers 1991
- Project-specific information is available, if required
- Video: "Access North America" is available for viewing on exploratory visit and is also available in visa offices. This video is produced in English, French, Spanish, Japanese and Cantonese Chinese.

Monitoring

Upon arrival in New Brunswick, Business immigrants should report to the Department of Economic Development and Tourism and/or of the Department of Agriculture to determine requirements for assistance and to facilitate future follow-up activities.

Entrepreneurs approved under the Business Immigration Program will have access to all government services and financial programs available to qualified New Brunswick business people.

Provincial contact

The lead Department related to Business Immigration Programs is the Department of Economic Development and Tourism.

Tony Lampart
Department of Economic Development and Tourism
P.O. box 6000, Centennial Building
Fredericton, New Brunswick E3B 5H1
Tel.: (506) 453–3455
Fax: (506) 444–4277

Provincial Representative overseas

The province of New Brunswick has a representative in Hamburg, Germany. The territory of the New Brunswick office includes German speaking Europe, the United Kingdom, the Netherlands and all Scandinavian countries. The address of the Hamburg office is as follows:

Dr. Claudia Schulz
Government of New Brunswick
Glockengiesserwall 17
D–20095 Hamburg
Germany
Tel.: 011–49–40–333 13 340
Fax: 011–49–40–333 13 378

Prospective business immigrants may contact this office to receive information on the province and discuss their proposal. The Hamburg office, in cooperation with the office in Fredericton, can comment on the project's feasibility.

In addition to the provision of feasibility evaluations, the Hamburg office is also fully entitled to provide any other input to the post including approval of projects.

ONTARIO

See note at the beginning of the guidelines.

Provincial objectives

The Government of Ontario participates with the Government of Canada in the Business Immigration Program. We believe the Program is an effective means to encourage business people to immigrate and invest their expertise, technical skills, and business capital in Ontario's economy. Our objective is to make it easier for such persons to establish themselves in businesses that will contribute to the economic development of Ontario.

Ontario believes that the skills necessary to succeed in business cannot be contained by geographic boundaries. The same entrepreneurial spirit that enables an individual to succeed outside Canada is required to succeed in the Ontario marketplace. **Ontario welcomes all business immigrants** who possess such entrepreneurial spirit, and who otherwise qualify for admission to Canada under the *Immigration Act* and *Regulations*.

Priority business sectors

Ontario is interested in individuals who will contribute to the Province's economic and social prosperity, and employ Ontario residents.

Ontario does not generally restrict the types of activities that business immigrants may engage in. Such restrictions usually apply only to the Immigrant Investor Program. It is very difficult to predict at the application stage what business an applicant will eventually invest in, or whether there will be resulting economic benefits.

A prospective business immigrant to Ontario should not normally be refused for having business plans that are vague or do not fall within provincial priorities. **An individual who proposes to invest in a small business, for example, may well expand to a larger operation once he is acclimatized to Ontario and has identified other opportunities. Many new business immigrants do business on a small scale to minimize their risks while learning how to do business in Ontario.**

In view of resource limitations and provincial objectives, Ontario particularly encourages applications from entrepreneurs who are interested in the following types of businesses. More detailed priority sectors (e.g. biotechnology, advanced materials, information technology) may be identified periodically.

- New manufacturing or processing
- Investment in an existing company in the manufacturing or related sector
- Technology development or application
- Job–creating tourism developments
- Tradeable services, that is, services exposed to international trade and competition. Examples may be information technology, communication industries, design industries, scientific and technical services, management consulting and consulting engineering.
- Service businesses which will create or maintain permanent, direct full–time employment in smaller communities.

For those business immigrants whose proposed investment does not fall in a priority sector, Ontario will provide basic business information.

Services will also be extended to immigrants in the investor category who intend to become actively involved in businesses which fall in a priority sector.

Exploratory visits

Ontario encourages prospective business immigrants to make exploratory visits to assess the quality of life and business opportunities in the Province. Information gathered during such a visit may be useful to formulate their business intentions.

Ontario provides a wide range of services for business immigrants, both prior to and following landing. These services are managed by the Business Immigration Section of the Ministry of Economic Development and Trade.

Provincial seminars

Consulting services are provided to business immigrants who make an exploratory visit to Ontario. The Business Immigration Section offers free, weekly **business immigration information seminars**, held on Tuesday afternoons at Queen's Park in Toronto. **Visa Officers are requested to encourage applicants to attend.** These seminars include an economic and regional overview of the Province, a review of business immigration categories, a discussion of the application process and business establishment concerns, and an introduction to the variety of services that can be accessed through the Ministry.

Individual consultations may also be arranged. Ontario is pleased to provide applicants with information, referrals, and introductions to other organizations and individuals who can assist them. They are also assisted in getting into business after they have been granted permanent residence.

Overseas processing

The province maintains close and ongoing communication with visa offices around the world. This ensures that Ontario's economic interests are reflected in the decisions taken by visa offices.

Regarding the selection of entrepreneurs, **Ontario sees little value in a formal business plan**. Ontario prefers that visa offices review an applicant's **business experience, financial capability and apparent commitment to doing business in Ontario**. Ontario values these indicators of the successful establishment of business people in Canada. Ontario does not require visa offices to refer each new business case for provincial review.

Ontario welcomes requests for comments which would assist visa offices in their selection decisions. The Business Immigration Section can provide information on industrial sectors, professional or licensing requirements, specific company data, or regional conditions. Ontario provides input on cases where federal officers may have concerns about an applicant's ability to establish in business.

Ontario is reluctant to suggest minimum thresholds for personal net worth. Business immigrants intending to settle in the Greater Toronto Area would naturally require more assets for settlement and investment than those destined to smaller communities. The Business Immigration Section will review individual cases at the request of a visa office. Similarly, Ontario will provide input to inland immigration centres when questions arise about the fulfilment of terms and conditions.

Ontario will **proactively** make its interests known in particular cases where it anticipates significant economic benefit to the province.

Notification from visa office

Ontario wishes to be notified when a visa is issued to an Ontario–destined individual under the Business Immigration Program. In all cases, visa officers are requested to provide Ontario with:

- a copy of the IMM–1000;
- a statement of Personal Net Worth;
- a statement of the recipient's sectoral background and interests, **OR**, when available, a copy of the "Business Applicant Summary" outlining background and business plans in more detail;
- an overseas address so that we can contact the individual before the move to Canada and offer our Section's services upon landing.

It is ***extremely*** important that we receive current addresses for the immigrant while still overseas. We wish to make our first contact with the individual prior to his or her landing in Ontario. This maximizes our ability to influence the individual's choice of investment at an early stage. Notification of the expected arrival date would be helpful if the individual will soon arrive. Also important are contact addresses in Canada, particularly in Ontario, where we can write the individual.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Counselling

Upon notification of visa issuance Ontario will determine its degree of interest in the immigrant. Some will have the intent and the potential to do business in one of Ontario's priority sectors. Such individuals will be sent a letter of congratulations overseas and offered a full range of Ministry services. Other individuals will be provided with basic business information and referral services.

Ontario wishes to provide business establishment services to Immigrant Investors who intend to reside in the Province, **even if their initial investment will be in another province.**

Publications and audio–visual material about Business services and investment conditions in Ontario are available from the Business Immigration Section of the Ministry of Economic Development and Trade. A promotional brochure is available in English, Chinese, Korean, German, Spanish, Portuguese and Italian.

After business immigrants have landed in Ontario, the Business Immigration Section is pleased to meet them individually to discuss their settlement and business concerns. The extent of services may vary from case to case.

We may be able to introduce immigrants to other services both inside and outside the Ministry:

- sectoral experts
- municipal economic development offices
- site location services for businesses
- Statistics Canada
- export information
- other government agencies

The Section has prepared a resource guide for business immigrants in Ontario. The Section also maintains a listing of Ontario businesses that are for sale or are seeking active investment capital.

All business immigrants are encouraged to register in our "Doing Business in Ontario" seminar, given in several languages throughout the year. This seminar provides information on starting a business, on Canadian taxation and banking, on business opportunities and on the removal of terms and conditions.

The Section also offers technical immigration services. These help Ontario and multinational companies with business needs that relate to immigration. This usually involves assisting with the transfer of senior executives or skilled personnel to Ontario on either a temporary or permanent basis.

Monitoring

Entrepreneurs may consult us about the fulfilment and removal of their terms and conditions. Ontario does not generally restrict the types of activities undertaken by Entrepreneurs, but may comment on economic benefit in individual cases.

The Business Immigration Section cooperates with Canada Immigration Centres with respect to landed business immigrants. Immigration counsellors may refer business immigrants to Ontario for counselling or to review documentation. Ontario may be able to provide advice about business conditions or opportunities.

The Province may provide comments to immigration counsellors about economic benefit to Ontario, or details on a business after reviewing documentation. In some cases, it may recommend that further time or assistance be given to comply with terms and conditions.

Entrepreneurs who have consulted the Business Immigration Section may request the province to review their business and submit a report to the Canada Immigration Centre. The Business Immigration Section will visit an Entrepreneur's place of business prior to completing an establishment report if provincial interest warrants it. It may also do it at the request of the Canada Immigration Centre.

Ontario is unlikely to recommend cancelling terms and conditions until the client has been in business for at least six months. In some cases, this time frame may be too short. An example would be the establishment of a trading operation that has generated few exports. If Ontario has been in close consultation with the client, a recommendation may be made sooner.

Ontario recognizes that the removal of terms and conditions is a federal decision. Ontario's assistance may shorten the time that a Canada Immigration Centre needs to spend with a client to determine compliance. This is especially true where Ontario's contact has been longer or more consistent.

Ontario's Business Immigration Section has computerized access to the Entrepreneur Monitoring Information System (EMIS). This access enables Ontario to share information with the Canada Immigration Centre about the location and business activities of its clients.

Self–Employed Category

Ontario does not require referral of applications in the self–employed category. As for other business immigrants, Ontario will provide input to visa officers in specific cases, upon request. In making their decisions, visa officers may wish to consider the following points. Ontario believes that self–employed applicants should demonstrate that they:

- have excellent credentials in their field of endeavour, substantiated through awards, certification, letters of reference, etc.;
- have been able to earn a living from their profession, skill or talent for a reasonable period of time prior to the application;
- have investigated the market for their profession, skill or talent in Ontario and are aware of any applicable licensing requirements. Evidence of a market might be letters from potential users of their proposed service;
- have sufficient assets for personal settlement. While the self–employed business may not require a large capital outlay, it may take several years to develop a clientele or markets.

Farmers

Ontario recommends that self–employed farmers make an exploratory visit. They should assess farm prices and the availability of appropriate farms. They should talk to agricultural representatives about farming in their preferred location.

Ontario does not feel that a firm purchase offer is needed prior to visa issuance. Rather, bona fide farmers should be visaed, become landed and make an offer after their arrival if they prefer. This would put them in a more reasonable negotiating position when buying a farm.

Farmers should demonstrate recent experience as self–employed farmers. They should have enough funds available for transfer to acquire at least 60 to 70 per cent equity in their farms.

For cases that present difficulties we are available to act as liaison upon request. We would liaise between the visa office and colleagues in the Ontario Ministry of Agriculture, Food and Rural Affairs.

Provincial contact

For more detailed information on these Ontario guidelines, to request assistance or to refer individual cases, please contact:

Manager
Business Immigration Section
Ministry of Economic Development and Trade
Hearst Block, 5th Floor
900 Bay Street
TORONTO, Ontario M7A 2E1
Tel.: (416) 325–6777
Fax: (416) 325–6653

MANITOBA

See note at the beginning of the guidelines.

Provincial objectives: Entrepreneurs

The Province of Manitoba strongly encourages investment by entrepreneur immigrants which has potential to deliver significant socio–economic benefits to the Province. Of particular interest to Manitoba are projects which:

- will manufacture/assemble products or provide services, especially those with potential to replace imports or to develop new markets
- will expand or introduce new technologies and engineering systems
- will upgrade or create new facilities in the manufacturing, processing and tourism industries
- will develop, maintain, expand or upgrade business and commercial activity, and particularly where such will have regional benefits to smaller communities.

Notwithstanding the foregoing priority business sectors for immigrant investment in Manitoba, Manitoba recognizes that new immigrants, being usually unfamiliar with the local business environment, often prefer initial or entry level businesses which may be marginal in terms of "significant economic benefit". As a measure of significant benefit, Manitoba considers an initial investment which has the potential to create or maintain a minimum of one full–time job (40 hours/week) to be acceptable. Examples of such businesses would include corner grocery stores, small retail shops, small restaurants, etc.

Manitoba prefers an applicant who indicates an intention to invest in such a business, whether or not a specific project is identified, and who has demonstrated (through a personal visit to Manitoba, including an interview with a business immigration development officer of Manitoba Industry, Trade and Tourism), an acceptable degree of credibility and an understanding of the investment risks/opportunities involved. In such cases, Manitoba will take a position of conditional support, on the understanding that the entrepreneur, once landed in the Province, will seek out Manitoba's counsel and guidance prior to commitment to his or her investment.

Demonstrated ability in business, either as an owner/shareholder or in senior management of an enterprise in which entrepreneurial skills are evidenced, is required. A minimum personal net worth of $250,000 relative to a Winnipeg destination, or $200,000 relative to other Manitoba destinations, is considered adequate to meet basic housing and resettlement costs.

Exploratory visits

Any prospective entrepreneurs who intend to locate in Manitoba are strongly encouraged to spend some time in the community where they plan to reside either prior to submitting their IMM 8 application or while awaiting interview with the post abroad. The purpose is to assess investment opportunities suitable to their circumstances and to discuss them with Manitoba. Our view is that a timely visit is usually an essential part of a bona fide entrepreneur application.

Manitoba maintains a permanent representative in Hong Kong who will provide advice and guidance concerning investment in the province and the immigration application process. Our representative travels on a regular basis throughout southeast Asia (including Korea, Taiwan, Malaysia, Singapore and the Philippines), and therefore all Manitoba–bound applicants resident in this geographic area are encouraged to arrange to meet with the representative during his in–market visits. Appointments may be arranged by contacting the office of Manitoba Industry, Trade and Tourism in Winnipeg, or the Hong Kong office directly at 902A China Building, 29 Queen's Road Central, Hong Kong; telephone (852) 5–233375.

Overseas processing

In cases of particular interest to Manitoba, immigration posts are encouraged to seek, and will be expected to consider Manitoba's comments relative to the business intentions of potential entrepreneurs. These comments will provide the interviewing post officer with any relevant and significant information which the province may have to offer, based on personal discussions held with the applicant.

Whether or not approached for comments by the processing post, in each case of particular interest to Manitoba, provincial officials will advance any pertinent comments to the processing post prior to interview.

Notification from visa office

The Visa office is expected to notify Manitoba of all final decisions pertaining to business applicants destined for Manitoba. A copy of the immigrant visa (IMM 1000) is to be forwarded upon issuance.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Monitoring

Manitoba and CIC Winnipeg have established a close working relationship in the monitoring of each immigrant entrepreneur, from the time of arrival in the province throughout the two–year conditional period, and beyond if/when required.

Manitoba offers a variety of consultive and other business assistance programs to assist in implementation of the business investment. At the same time, Manitoba's input will supplement CIC's functions regarding the eventual cancellation of terms and conditions.

When the entrepreneur calls for or is deemed to be ready for inspection of his business venture, Manitoba and CIC will usually arrange a joint visit to his/her place of business, and thereafter, Manitoba will normally assemble and submit to CIC the required documentation along with the province's formal recommendation with regard to cancellation of terms and conditions of landing.

Provincial objectives: Self–Employed Immigrants

Provinces do not normally provide an advisory role in the processing of Self–Employed applicants. However, should an applicant consult Manitoba in the course of his consideration of relocating to the province, we will provide any relevant comments to the processing post to assist in the assessment.

Manitoba would appreciate receiving a copy of the immigrant visa (IMM 1000) all cases of Manitoba–bound immigrants visaed as self–employed. Also, to the extent that the counselling services of Manitoba Industry, Trade and Tourism may be helpful, the post should provide the immigrant with the address indicated below.

Contact

Assistant Deputy Minister
Industry and Trade Division
Manitoba Industry, Trade and Tourism
410–155 Carlton Street
Winnipeg, Manitoba R3C 3H8
Tel.: (204) 945–2456
Fax: (204) 957–1793

SASKATCHEWAN

See note at the beginning of the guidelines.

Provincial objective

Saskatchewan wishes to provide immigration support or assistance to those entrepreneurs which the province establishes will make a significant economic contribution to the province and generate wealth.

Priority business sectors

- manufacturing and processing of goods
- export services
- destination tourism
- development of new technologies or refinement of existing technologies
- commercial water projects
- enhancement of existing resources recovery and development projects
- service/retail industry where a shortage of service or supply exists
- agriculture projects which produce or use new products or enhance the value of existing agricultural production
- other projects, including activities which diversify the provincial economy but which are not clearly within the priority business sectors and not clearly excluded by them.

Exploratory visits

Provincial support of a project is assessed on a case by case basis. Entrepreneurs are encouraged to contact provincial business immigration officials to determine if the provincial authorities wish to support their application. To receive such support, applicants must:

- submit a written business proposal to the Saskatchewan Department of Economic Development. The purpose of the submission is to assess the economic impact the venture will have on the provincial economy.
- provide evidence of direct investment in the proposed business or establish a trust account (minimum $50,000 Can.).
- must visit Saskatchewan prior to visa issuance. Undertaking an exploratory trip will allow applicants to assess the market, their needs, etc. This visit is part of the requirements for obtaining a provincial letter of support.

In return, Saskatchewan will issue a letter of support to the visa officer handling the file.

Overseas processing

There will be instances where the level of business involvement within the province will warrant specific comments by the province, or a direct representation to a visa office on behalf of an applicant. Provincial support will be established on a case–by–case basis. Comments from the Provincial Business Immigration Evaluation Committee are encouraged in all cases.

Saskatchewan wishes to introduce procedures whereby Citizenship and Immigration Canada will be advised of specific individuals the province wishes to "nominate" for immigration. It also wishes to establish a mechanism and procedures for "priority" processing in business projects of high priority to the province.

Notification from visa office

Saskatchewan requires notification of all applicants who indicate Saskatchewan as their destination, and a copy of the immigrant visa (IMM 1000) and Business Applicant Summary. This information is important in assessing the applicant's proposed business opportunity.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Counselling

Recommendations as to the degree of support or assistance to an entrepreneur are made by the Business Immigration Evaluation Committee of the Saskatchewan Department of Economic Development. One-on-one advice and printed counselling materials are available to business immigrants once they have landed.

Other services include language and settlement assistance through Immigration Services Branch, Department of Human Resources, Labour and Employment.

All services available to an eligible Saskatchewan business are accessible to an eligible entrepreneur.

Monitoring

The province is prepared to assist CIC officials in monitoring of "specified" business ventures where there is a high level of provincial support for the applicant in priority areas of investment. This would include removal of provincial terms and conditions for the release of funds placed in a trust account directly related to business development.

ALBERTA

See note at the beginning of the guidelines.

Provincial objectives

Alberta wishes to attract business immigrants who will establish or make significant investments in acceptable active business ventures which will:

- create or protect permanent jobs for Canadian residents other than members of the immigrant's family; and/or
- be of significant economic benefit to the province; or
- make an identified positive contribution to the quality of life in the community in which the venture is located.

Overseas processing

To facilitate the quick processing of applicants who, in the opinion of the visa officer are bona fide but who have not developed or submitted a business plan for a specific business, Alberta is prepared to respond to a brief written request whenever such applicants:

- have a successful business track record and have a history of employing persons other than their relatives; and
- have a good command of written and spoken English; and
- are able to transfer an acceptable amount of money for investment purposes together with additional funds for personal living costs; and
- are willing to work cooperatively with Alberta's Business Immigration Programs Unit to locate an acceptable business venture and establish themselves in an approved business within two years of arrival in Canada.

Alberta will act on a written communication from a visa officer which confirms the above points and gives a brief description of such applicants and the kind of businesses of interest to them. When responding in the affirmative, Alberta's Business Immigration Programs Unit will provide the name of a provincial officer whom the applicant should be instructed to contact upon arrival in Alberta.

When Alberta has made first contact with a business person of particular interest to the Province, the mission concerned will be advised by Alberta's Business Immigration Programs Unit before immigration processing has been initiated. Alberta's Business Immigration Programs Unit will instruct the individual to make application for permanent residence and will provide the concerned visa officer with pertinent information leading to Alberta's interest and support. When warranted, the Province will request expeditious processing.

Alberta's Business Immigration Programs Unit will advise the visa officer regarding the amount of capital they estimate is required to establish and sustain a proposed business venture. The visa officer will consider the Province's estimates.

Notification from visa office

Pursuant to Section v(2)(c) – page 6 – of the Canada–Alberta Immigration agreement, visa officers will provide Alberta's Business Immigration Programs Unit with a copy of all applications received from prospective business immigrants interested in locating in Alberta.

The visa office will notify Alberta's Business Immigration Programs Unit of all final decisions relating to business applicants destined to Alberta, and will also advise the same office when a visa/permit has been issued and the expected date of entry into Canada.

To assist in the monitoring process, Alberta requests the visa office to provide copies of the following documents:

IMM 0008 – Application for permanent residence
IMM 1000 – Immigrant visa and record of landing
Business Applicant Summary
Personal Net Worth Statement
The communication by Canada of personal information remains subject to the *Privacy Act*.

Minister's permits

In a case where a medical condition (of either the principal applicant or a family member) is the only factor preventing the issuance of a visa to a business applicant, Alberta's Business Immigration Programs Unit is prepared to review the circumstances. Alberta, therefore, wishes to receive all pertinent information which should be directed to c/o the address below – for the attention of the "Alberta Immigration Review Panel".

If the Panel (in consultation with local health authorities) advises that the inadmissible person does not pose a threat to the health of the public, or will not make an unreasonable demand upon provincial services, the Province may choose to request that entry be facilitated by means of a Minister's permit.

Refusals

The visa officer will strongly consider Alberta's Business Immigration Programs Unit's comments and recommendations whenever Alberta identifies:

- that a proposed business venture
  - has definite negative aspects; or
  - fails to offer any significant economic benefits to the province; or
  - fails to make a positive contribution towards the quality of life of the community in which it will be located.
- that a business applicant
  - lacks sufficient business experience or expertise; or
  - lacks sufficient financial resources to establish and sustain the venture.

Provincial services for landed Entrepreneurs and Investors

- Group counselling
- One-on-one counselling
- Printed counselling material
- Business Investment Opportunity Matching Services

Monitoring

Alberta's Business Immigration Programs Unit monitors the progress of all business immigrants admitted with conditional visas, or under Minister's Permits. Regular progress reports on each business applicant are provided to the Regional HQ of Citizenship and Immigration Canada. Alberta's progress reports and assessments will be considered in determining when business immigration requirements have been fulfilled so as to facilitate the cancellation of terms and conditions.

It is, therefore, important that business immigrants be instructed to contact Alberta's Business Immigration Programs Unit at the address below upon arrival in Alberta.

Contact

Business Immigration Programs Unit
Alberta Economic Development and Tourism
4th Floor, 10155 – 102 Street
Edmonton, Alberta T5J 4L8
Tel.: (403) 422-6236
Fax: (403) 422-9127

BRITISH COLUMBIA

See note at the beginning of the guidelines.

The following guidelines reflect British Columbia's experience over a number of years of working with prospective and landed business immigrants. They describe the province's expectations, its economic priorities, and the services it offers to business immigrants. They are intended as a guide for visa officers at Canadian Missions worldwide to assist them in selection, and for domestic immigration officers to assist them in the cancellation of terms and conditions.

British Columbia intends this document to be relevant to two other important audiences, the immigration lawyer/consultant community, and the business immigrants themselves.

Significant economic benefit (SEB)

In defining an Entrepreneur, the *Regulations* refer, among other things, to "substantial investment" and "significant contribution to the economy". For our purposes, we use the terms "significant economic benefit (SEB) " to reflect both. Conditionally visaed entrepreneurs have a need and a right to know what B.C. considers to be significant economic benefit in order to fulfil the province's expectations.

SEB recognizes the existence of a higher cost structure within the Greater Vancouver Regional District (GVRD) or Greater Victoria area[1]. The following rules of thumb apply to the expected level of investment within and outside these areas.

A **standard job** is a full time job (35 hours per week) for a person not related to the entrepreneur at a wage significantly above minimum wage and consistent with local wage scales for that sector. Wage levels are not specified as they depend on the geographic location, skill required and norms for the industry sector.

A **basic business investment** is one which creates one standard job in a business activity.

There are two rules of thumb to determine significant economic benefit (SEB).

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[1] *The Greater Vancouver Regional District (GVRD) as used in this document includes the municipalities of Vancouver, North Vancouver, West Vancouver, Burnaby, New Westminster, Richmond, Surrey, Delta, White Rock, Langley, Aldergrove, Port Moody, Coquitlam and Port Coquitlam. Greater Victoria as used in this document includes Victoria, Saanich, Oak Bay, Esquimalt and View Royal.*

Rule #1: within the GVRD/ Greater Victoria areas:

- SEB will be deemed to result from a business investment of $150,000 minimum.
- Example: a $150,000 investment in a computer business in Vancouver which created one standard job for a computer technician and which was actively managed by the entrepreneur is deemed to provide SEB.

Rule #2: Outside GVRD and Greater Victoria:

- SEB is deemed to result from a basic business investment of at least $90,000.

Net worth guidelines

The amount of capital required to make a significant business investment and for successful settlement depends on the geographic location and the regional economy within British Columbia.

As a rule of thumb, entrepreneurs who intend to reside within the Greater Vancouver Regional District (GVRD) or Greater Victoria, and who intend to purchase a family home will require a minimum of $500,000 in liquid funds. Approximately half that amount will be required for modest housing (slightly less in Victoria) and about $100,000 for other living and settlement costs until the business is established and profitable.

Outside the GVRD and Victoria, lower housing and land costs dictate considerably lower settlement and business start–up costs. Outside GVRD and Victoria, the Province considers a net worth of at least $250,000 to be the minimum required for successful settlement and business start–up.

Provincial Objectives

British Columbia regards the achievement of significant economic benefit (SEB) as a key objective of business immigration. Evidence of such benefits is found in businesses that:

- contribute to the growth of a new or existing B.C. company by giving it access to the prospective immigrant's entrepreneurial, managerial, export marketing and technical skills, and financial resources;
- create and/or maintain permanent, direct, full–time jobs; and which also, typically, do one or more of the following:
- initiate or increase manufacturing or processing output;
- export goods or services;
- produce import replacements;
- add value to raw or semi–finished materials through further manufacture, assembly or processing;
- develop or introduce new technology that supports the above–mentioned criteria.

Priority business sectors

British Columbia's priority business sectors include:

- Manufacturing or processing;
- Development and application of new technology;
- Natural resource development, and value–added products derived from natural resources;
- Agricultural and aquacultural production and processing;
- Film and television industry productions and facilities;
- Tourism and recreational developments;
- Educational facilities offering government certified courses[2];
- International maritime shipping operations;

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[2] *Projects in this category should be discussed with the relevant provincial government Ministry before commencement to clarify need, applicable regulations and other information relevant to this project.*

- Trading houses and industrial service organizations focused on export markets;
- Business development that creates or maintains permanent employment outside the GVRD or Greater Victoria.

Exploratory visits

B.C. believes that sustained contact with entrepreneur immigrants, both before and after landing, will facilitate an early and successful settlement and entrepreneurial initiative in British Columbia.

We consider both an exploratory visit and participation at one of our weekly seminars to be prerequisites in the entrepreneur category, **except** in those cases where the visa officer is fully satisfied that the applicant is well informed about doing business in B.C.

Provincial seminars

Services of the B.C. Business Immigration Branch are offered in several languages, including Mandarin, Cantonese, Spanish, Portuguese, Italian and French.

Seminars are free of charge, and are held at least once a week in several languages (including Mandarin and Cantonese) depending upon demand. All prospective business immigrants, including those in the investor and self–employed categories, are invited and encouraged to attend.

Group seminars are generally provided rather than on one–on–one interviews. Commonly asked questions are answered about living and doing business in British Columbia, identifying business opportunities, and finding sources of business information or settlement assistance.

Registration in a seminar can be made by telephone or fax directly with our Vancouver office. A Business Interest Profile must be completed to register. The Profile enables the Business Immigration Branch to assess the level of service we can usefully offer to the prospective immigrant, and to follow up prior to visa issuance.

Overseas processing

British Columbia does not require entrepreneur cases to be referred to the Province for comments. The following guidelines should make referral to the Province unnecessary in most cases.

British Columbia discourages the use of business plans as an entrepreneur evaluation tool. The Province's experience indicates such plans are not a reliable indicator of business skills, future performance or entrepreneurial success.

The Province's role in selection takes the form of:

- Advice and recommendation to the mission on any case in which they seek provincial opinion.
- Advice and recommendation to the mission in cases of particular significance for B.C., including provincial nominees.
- Provision of information about provincial priorities or sectors, and any other information which Missions may request to assist them in the decision process. Missions and individual immigration officers are encouraged to contact the provincial Business Immigration Branch if they have information needs.

Generally, British Columbia asks that the missions focus on three qualities in assessing the suitability of entrepreneur applicants:

- Demonstrated success as an entrepreneur;
- Sufficient capital to settle the family and make a significant business investment in British Columbia (consideration should be given to SEB and Net worth guidelines);
- Demonstrated commitment to be an entrepreneur in British Columbia as reflected by participation in a B.C. investment immigration seminar.

While British Columbia considers these three factors to be key determinants for success as an entrepreneur, the Province recognizes that some visaed entrepreneurs may not be successful in British Columbia.

Since March 1991, participants at Vancouver seminars are issued attendance certificates. Visa officers should verify seminar attendance when assessing entrepreneur suitability. Whenever possible, visa officers are asked to encourage those who have not attended a seminar to do so before visa issuance.

Notification from visa office

Following successful processing, visa officers are requested to forward the following information to our Vancouver office:

- Copy of IMM 8
- Copy of IMM 1000
- Copy of Business Applicant Summary
- Net Worth Statement.
- Visa officer's assessment of the suitability of principal applicant.
- Copy of a letter instructing successful applicants to contact the provincial Business Immigration Branch within two weeks of landing in B.C.

When a visa officer meets an exceptional entrepreneur or investor applicant who is considering B.C., we would appreciate early notification so that specialized assistance can be extended at the earliest opportunity. Mailing addresses overseas are extremely important to establish contact before arrival in Canada.

The communication by Canada of personal information remains subject to the *Privacy Act*.

Counselling

British Columbia publications include:

- *Welcome to British Columbia: the business immigration program*. This brochure is available in nine languages: English, French, Chinese, Japanese, Korean, German, Italian, Portuguese and Spanish.
- Profiles of the province's priority sectors and listings of current business opportunities.
- Several videos dealing with settlement, high technology sectors and other business opportunities. Some are available in Cantonese or Mandarin.

The province may undertake marketing missions from time to time to interest prospective business immigrants in specific sectors or regions of priority to the province.

Some B.C. officers abroad provide introductory seminars about the province and the business immigration process. They may also offer familiarization seminars for visaed business immigrants.

Post–landing services for Entrepreneurs and Investors

British Columbia limits individual counselling to clients who require assistance to invest in one of the Province's priority sectors or in a location outside the GVRD or Greater Victoria areas. Entrepreneurs or investors in a priority sector are provided a full range of personalized Ministry services, including individual counselling on settlement and business matters, and introductions to key contacts around the province.

The Vancouver office of the B.C. Immigration Branch provides services to all business immigrants. These include business information, referrals or introductions to regional and municipal officials throughout the province.

Entrepreneurs who have not satisfied the terms and conditions of their landing, and those who are seeking business opportunities, are invited to attend a seminar. The seminar focusses on requirements for cancellation of terms and conditions, the identification of opportunities, the practical aspects of licensing and starting a business, and the services available to small businesses through various federal, private sector and volunteer agencies. All business immigrants may use our business information centres and public libraries.

The province maintains computerized inventories of current business opportunities including joint ventures and businesses for sale, opportunities for import replacement, and new product ideas of interest to business people.

Monitoring Entrepreneurs

In some cases, the province may assist a Canada Immigration Centre in the monitoring of terms and conditions. The province may submit a written opinion to immigration officials about a business venture's achievement of significant economic benefit (SEB). Supporting documentation and site visits may be required.

B.C. requests that the Canada Immigration Centre refer to its stated provincial priorities and to its rules of thumb for SEB when determining if a case qualifies for cancellation of terms and conditions of landing.

B.C. has computerized access to the Entrepreneur monitoring information system (EMIS). This will expedite our efforts to:

- identify and offer services to immigrants who have landed with terms and conditions, including those who have transferred from another province
- Confirm background and status of entrepreneurs who ask for assistance.

We will share information on EMIS about significant follow–up contact that provincial counsellors have with clients.

B.C. wishes to be informed of any entrepreneurs against whom CIC is initiating enforcement action. Provincial documentation or other evidence relevant to the case will be shared.

British Columbia wishes to be informed of any analyses of statistical data (other than standard EMIS reports) about entrepreneurs resident in B.C.

Self–Employed Category

British Columbia does not require or expect the referral of any application in the self–employed category. B.C.'s pre– and post–immigration seminars are open to self–employed immigrants. B.C. does do not offer specialized counselling to the self–employed.

Farmers

Farmers may qualify as immigrants if they have recent farming experience, verifiable markets for their products, sufficient funds to own 70 percent equity in their farm and recent contact with the B.C. Ministry of Agriculture and Fisheries to assess viability.

YUKON TERRITORY

See note at the beginning of the guidelines.

Territorial objectives with regard to Business Immigration

Investment in the Yukon is welcomed in all sectors. However, the priority sectors are mining and mineral processing, tourism, light manufacturing and processing, and renewable resources, such as forestry and agriculture.

Exploratory visit

Exploratory trips are encouraged and recommended. Sound investment decisions are difficult to make without a site visit.

Business counselling is available to business immigrants in the Yukon. This service can be utilized during the exploratory visit.

Overseas processing

The Yukon requires a copy of a business plan. A quality business plan indicates the seriousness of the applicant and is necessary to determine the net benefit to the Yukon.

Input into the selection stage of processing abroad would occur through review of the business plan.

It should be noted that the main criteria in the Yukon's review is the net benefit to the Yukon. It is also important that immigrants succeed in the business and, although success cannot be guaranteed, the chances of success increase with sound research and business planning.

Notification from visa office

The Yukon requires a copy of the business Applicant Summary and the Personal Worth Statements.

Monitoring

The Yukon will assist federal immigration authorities in monitoring the terms and conditions and would require notification of non–compliance.

Contact:

Industry and Program Development
Department of Economic Development
Box 2703
Whitehorse, Yukon Y1A 2C6
Fax: (403) 667–8601

NORTHWEST TERRITORIES

See note at the beginning of the guidelines.

Guidelines for the Northwest Territories are not presently available.

APPENDIX G
LE PROGRAMME D'IMMIGRATION D'AFFAIRES DU QUÉBEC – THE QUEBEC BUSINESS IMMIGRATION PROGRAM

NOTE

As discussed in sections 2.7 and 4.9, all independent immigrants destined to Quebec, including business immigrants, are selected by Quebec Immigration officials.

The following description of the Quebec Business Immigration Program was provided by the ministère des Affaires internationales, de l'Immigration et des Communautés culturelles du Québec (MAIICC) in May 1995.

THE QUEBEC BUSINESS IMMIGRATION PROGRAM

Entrepreneurs and self–employed workers

Entrepreneurs and self–employed workers destined for Quebec may be referred directly to one of the Quebec offices abroad, a list of which is attached (APPENDIX G – ANNEX 1).

To qualify they must meet the criteria set out in the Quebec statutes and regulations which impose certain minimum standards in terms of experience and net assets ($200,000 Can.) (see attached definitions, APPENDIX G – ANNEX 2). They must **also** have sufficient financial resources to pay for transportation to Quebec and their family's living expenses during a six–month settlement period in Quebec.

The ability of entrepreneurs and self–employed workers to set up a business in Quebec is assessed against the criteria provided in "Schedule J" of the Quebec regulations. This assessment can be carried out by the Direction des Opérations à l'Étranger in Montreal (see list of addresses, APPENDIX G – ANNEX 3), following the exploratory trip to Quebec, or at the time an applicant is selected abroad.

A team of professionals has been formed to help entrepreneurs and self–employed workers destined for Quebec properly explore the Quebec market, help them successfully set up in business in Quebec, and guide them in their efforts to have terms and conditions removed following their admission to Canada. The team is part of the Direction de l'Aide à l'Immigration d'Affaires (DAIA–MAIICC) (see attached APPENDIX G – ANNEX 3). This directorate maintains a list of business opportunities in Quebec and gives seminars on subjects related to setting up business in Quebec. All applicants may be referred to the Directorate, and the Quebec government particularly encourages applicants to make an exploratory trip when they first apply to immigrate.

Investor Immigrant Program

Quebec is one of the provinces which require applicants to invest a minimum of $350,000 (Can.) for the statutory period of five years.

In Quebec, there are no investment funds (syndicates) administered by the private sector or government. The only available option is a direct investment by the investor in an eligible business through a stockbroker or a trust company.

Applicants must sign a contractual agreement with a stockbroker or trust company, under which they pledge to invest the agreed amount ($350,000 or $500,000) in an eligible business within a period of not more than twelve months after landing in Canada.

The copy of the Quebec Selection Certificate (CSQs) sent by the Quebec immigration service to the visa office confirms that the agreement signed by an applicant complies with Quebec regulations. It also confirms that the applicant has deposited, in a frozen account with the broker or trust company, the entire amount that he has pledged to invest (transfer of funds).

In the case of workers who invest in Quebec but live in another province, the Canadian Visa Office (visa officer) must have received, from the Direction de l'Aide à l'Immigration d'Affaires (DAIA–MAIICC) **before the visa is issued**, confirmation that applicants have already transferred their funds to Quebec as stated above.

Applicants can count on the financial expertise of their stockbroker or trust company, which will help them find good businesses for their investments. Since these financial institutions are monitored by various government agencies, including the Commission des Valeurs Mobilières, applicants may rest assured that their accounts are protected.

The DAIA–MAIICC verifies that investments made under the program comply with Quebec regulations governing the program.

The moratorium announced in November 1995 applies only to investment funds; Quebec's program therefore is not affected by that decision.

Visa officers may provide applicants with photocopies of the list of Quebec immigration service offices abroad (APPENDIX G –ANNEX 1) and the list of stockbrokers and trust companies that participate in the Quebec Investor Immigrant Program.

APPENDIX G – ANNEX 1
QUEBEC IMMIGRATION SERVICE OFFICES ABROAD

Brussels

Service d'immigration du Québec
Délégation générale du Québec
46 Avenue des Arts, 7th floor
1040 Brussels, Belgium

Hong Kong

Service d'immigration du Québec
Délégation du Québec
Lippo Centre, Lippo Tower, 19/F
89 Queensway Central
Hong Kong

Mexico

Service d'immigration du Québec
Délégation du Québec
Avenida Taine 411
Colonia Bosques de Chapultepec
11580 Mexico D.F., Mexico

Paris

Service d'immigration du Québec
Délégation générale du Québec
87–89, rue la Boétie
75008 Paris, France

Vienna

Service d'immigration du Québec
c/o Canadian Embassy
Porzellangasse 2/28
A–1090 Vienna, Austria

Damascus

Service d'immigration du Québec
c/o Canadian Embassy
Autostrade Mezzeh, P.O. Box 3394
Damascus, Syria

Cairo

Service d'immigration du Québec
Délégation du Québec
4 Latin America, 1st floor
P.O. Box 1668, Garden City
Cairo, Egypt

New York

Service d'immigration du Québec
Délégation générale du Québec
One Rockefeller Plaza, 26th Floor
New York, NY 10020, United States

Rome

Service d'immigration du Québec
Délégation du Québec
Via XX Settembre 4
00187 Rome, Italy

APPENDIX G – ANNEX 2
DEFINITIONS UNDER THE QUEBEC BUSINESS IMMIGRATION PROGRAM

Entrepreneurs

To qualify in this category, an immigration applicant must:

- have net assets of at least $200,000 (Can);
- have at least three years of experience as manager of an agricultural, industrial or commercial establishment, in the planning, organization, supervision, coordination, and control of human, material and financial resources;
- demonstrate his intention of setting up in business in Québec by proposing a business undertaking he will take an active part in managing and in which he will make a financial investment acceptable to Québec;
- maintain or create at least three jobs for Québec residents other than himself and members of his immediate family.

Self–employed workers

To qualify in this category, an immigrant must:

- have net assets of at least $200,000 (Can);
- have at least three years of experience, including one in business management and two in areas of economic activity related to the enterprise he plans to create or acquire in Québec;
- demonstrate his intention of setting up in business in Québec by proposing a business undertaking he will manage and in which he will invest.

Business investors

To qualify in the category of business investors, an applicant must:

- have at least three years of experience in the business management of an agricultural, industrial or commercial enterprise;
- have available a net capital of at least $500,000 (Can) amassed in lawful economic activities; commit himself to invest for five years, under contract with a stockbroker recognized by the Commission des valeurs mobilières du Québec (CVMQ), a sum of at least $350,000 (Can) in non–guaranteed investments approved by the gouvernement du Québec;

or

- have net assets of $700,000 (Can) and agree to invest a sum of $500,000 (Can) for five years in securities approved by the gouvernement du Québec. In this case, the brokerage contract should bear a guarantee or an insurance of repayment by a third party.

These investments are designed to provide Québec businesses with venture capital to finance new projects or contribute to the development of the Québec economy through the protection or creation of employment; this is why only investments in firms meeting certain criteria are eligible:

- the firms must be under Canadian control;
- their headquarters must be located in Québec;
- the assets of the firms and associated groups must not exceed $35 million;
- more than 60% of their payroll must be destined for Québec employees.

APPENDIX G – ANNEX 3
MAIICC OFFICES IN QUEBEC

Ministère des Affaires internationales, de l'Immigration et des Communautés culturelles du Québec

General Enquiries
360 McGill
Montreal, Quebec H2Y 2E9
Telephone: Immigration sector: (514) 864-9191 or 873-2445
International Affairs sector: (514) 499-2171
Fax: (514) 864-2926

Direction des Opérations à l'Étranger
800 Place Victoria, 6th floor
P.O. Box 85
Montreal, Quebec H4Z 1B7
Telephone: (514) 873-5760
Fax: (514) 864-2926

Direction de l'Aide à l'Immigration d'Affaires (DAIA-MAIICC)
360 McGill
Montreal, Quebec H2Y 2E9
Telephone: (514) 873-2730
Fax: (514) 873-0762

CASE PROCESSING TIMES BY OVERSEAS OFFICE

(C) Number of Cases – 1996
(M) Time required to process 80% of all final cases (in months) – 1996

OFFICE	SPOUSES	FAMILY CLASS	REFUGEES	BUSINESS	SKILLED WORKERS	ALL CATEGORIES
Abidjan	(C) 64	(C) 129	(C) 41	(C) 13	(C) 46	(C) 293
	(M) 12	(M) 35	(M) 18	(M) 37	(M) 37	(M) 27
Accra	(C) 168	(C) 397	(C) 15	(C) 1	(C) 28	(C) 616
	(M) 19	(M) 24	(M) 28	(M) 17	(M) 20	(M) 23
Ankara	(C) 146	(C) 114	(C) 401	(C) 23	(C) 151	(C) 832
	(M) 10	(M) 13	(M) 9	(M) 27	(M) 16	(M) 12
Bangkok	(C) 917	(C) 1349	(C) 211	(C) 21	(C) 251	(C) 2750
	(M) 14	(M) 27	(M) 21	(M) 20	(M) 18	(M) 21
Beijing	(C) 553	(C) 1591	(C) –	(C) 113	(C) 855	(C) 3362
	(M) 15	(M) 13	(M) –	(M) 13	(M) 14	(M) 14
Belgrade	(C) 147	(C) 316	(C) 1817	(C) 1	(C) 479	(C) 2755
	(M) 6	(M) 8	(M) 11	(M) 6	(M) 16	(M) 11
Bogota	(C) 135	(C) 146	(C) 21	(C) 86	(C) 168	(C) 556
	(M) 13	(M) 16	(M) 6	(M) 15	(M) 12	(M) 13
Bonn	(C) 135	(C) 164	(C) 115	(C) 257	(C) 750	(C) 1401
	(M) 9	(M) 13	(M) 12	(M) 13	(M) 12	(M) 12
Bucharest	(C) 135	(C) 284	(C) 1	(C) 16	(C) 697	(C) 1136
	(M) 6	(M) 7	(M) 7	(M) 9	(M) 11	(M) 10
Buenos Aires	(C) 25	(C) 28	(C) –	(C) 18	(C) 24	(C) 96
	(M) 10	(M) 22	(M) –	(M) 21	(M) 11	(M) 15
Buffalo/APC/Area	(C) 1071	(C) 1438	(C) 3	(C) 1295	(C) 11572	(C) 15138
	(M) 14	(M) 16	(M) 37	(M) 17	(M) 14	(M) 14
Cairo	(C) 116	(C) 154	(C) 110	(C) 41	(C) 637	(C) 1058
	(M) 11	(M) 14	(M) 11	(M) 17	(M) 12	(M) 12
Colombo	(C) 201	(C) 1141	(C) 2	(C) 78	(C) 1816	(C) 3231
	(M) 7	(M) 12	(M) 10	(M) 11	(M) 9	(M) 10
Damascus	(C) 919	(C) 733	(C) 352	(C) 183	(C) 1694	(C) 3878
	(M) 10	(M) 19	(M) 8	(M) 16	(M) 15	(M) 14
Guatemala	(C) 160	(C) 418	(C) 100	(C) 8	(C) 66	(C) 751
	(M) 9	(M) 14	(M) 13	(M) 5	(M) 13	(M) 13
Havana	(C) 156	(C) 65	(C) –	(C) –	(C) 5	(C) 226
	(M) 10	(M) 16	(M) –	(M) –	(M) 19	(M) 12
Hong Kong	(C) 675	(C) 2542	(C) 34	(C) 2178	(C) 7010	(C) 12378
	(M) 13	(M) 18	(M) 37	(M) 14	(M) 11	(M) 13
Islamabad	(C) 627	(C) 273	(C) 594	(C) 58	(C) 840	(C) 2387
	(M) 14	(M) 27	(M) 21	(M) 27	(M) 19	(M) 20
Kiev	(C) 6	(C) 31	(C) 1	(C) –	(C) 129	(C) 165
	(M) 23	(M) 25	(M) 15	(M) –	(M) 19	(M) 19
Kingston	(C) 379	(C) 1011	(C) 2	(C) 9	(C) 103	(C) 1501
	(M) 14	(M) 14	(M) 7	(M) 14	(M) 11	(M) 14
Lima	(C) 23	(C) 40	(C) 1	(C) –	(C) 15	(C) 78
	(M) 6	(M) 12	(M) 37	(M) –	(M) 7	(M) 11
Lisbon	(C) 117	(C) 103	(C) 4	(C) 16	(C) 165	(C) 401
	(M) 6	(M) 13	(M) 2	(M) 14	(M) 10	(M) 10
London	(C) 568	(C) 612	(C) 66	(C) 346	(C) 4233	(C) 5774
	(M) 7	(M) 10	(M) 14	(M) 13	(M) 12	(M) 11

OFFICE	SPOUSES		FAMILY CLASS		REFUGEES		BUSINESS		SKILLED WORKERS		ALL CATEGORIES	
Los Angeles	(C)	195	(C)	211	(C)	–	(C)	450	(C)	2756	(C)	3565
	(M)	13	(M)	13	(M)	–	(M)	11	(M)	11	(M)	11
Manila	(C)	1374	(C)	2876	(C)	4	(C)	41	(C)	2367	(C)	6642
	(M)	9	(M)	16	(M)	37	(M)	13	(M)	11	(M)	13
Mexico	(C)	51	(C)	67	(C)	53	(C)	142	(C)	448	(C)	760
	(M)	15	(M)	16	(M)	19	(M)	24	(M)	16	(M)	18
Moscow	(C)	92	(C)	304	(C)	28	(C)	11	(C)	746	(C)	1199
	(M)	12	(M)	13	(M)	16	(M)	27	(M)	18	(M)	17
Nairobi	(C)	386	(C)	705	(C)	493	(C)	9	(C)	145	(C)	1740
	(M)	18	(M)	24	(M)	20	(M)	37	(M)	23	(M)	22
New Delhi	(C)	3920	(C)	4693	(C)	32	(C)	28	(C)	2122	(C)	10785
	(M)	7	(M)	23	(M)	34	(M)	37	(M)	13	(M)	15
New York	(C)	433	(C)	360	(C)	3	(C)	387	(C)	3703	(C)	4853
	(M)	12	(M)	12	(M)	9	(M)	12	(M)	11	(M)	12
Paris	(C)	548	(C)	392	(C)	71	(C)	246	(C)	2667	(C)	3917
	(M)	10	(M)	14	(M)	17	(M)	14	(M)	10	(M)	11
Port of Spain	(C)	732	(C)	1097	(C)	–	(C)	8	(C)	173	(C)	2002
	(M)	10	(M)	15	(M)	–	(M)	14	(M)	13	(M)	13
Port–au–Prince	(C)	788	(C)	814	(C)	24	(C)	–	(C)	22	(C)	1648
	(M)	25	(M)	24	(M)	20	(M)	–	(M)	18	(M)	24
Pretoria	(C)	44	(C)	165	(C)	128	(C)	87	(C)	753	(C)	1165
	(M)	8	(M)	12	(M)	16	(M)	12	(M)	10	(M)	12
Riyadh	(C)	183	(C)	136	(C)	301	(C)	340	(C)	2101	(C)	3055
	(M)	17	(M)	22	(M)	9	(M)	18	(M)	19	(M)	19
Rome	(C)	103	(C)	121	(C)	236	(C)	101	(C)	876	(C)	1420
	(M)	11	(M)	15	(M)	17	(M)	13	(M)	13	(M)	14
Sao Paulo	(C)	37	(C)	62	(C)	–	(C)	13	(C)	100	(C)	212
	(M)	11	(M)	14	(M)	–	(M)	13	(M)	11	(M)	12
Seattle	(C)	279	(C)	461	(C)	–	(C)	155	(C)	1656	(C)	2470
	(M)	10	(M)	13	(M)	–	(M)	21	(M)	16	(M)	16
Seoul	(C)	34	(C)	36	(C)	–	(C)	540	(C)	432	(C)	1038
	(M)	13	(M)	16	(M)	–	(M)	14	(M)	15	(M)	14
Singapore	(C)	67	(C)	146	(C)	32	(C)	242	(C)	2161	(C)	2599
	(M)	7	(M)	12	(M)	23	(M)	12	(M)	12	(M)	12
Sydney	(C)	260	(C)	188	(C)	1	(C)	15	(C)	532	(C)	994
	(M)	7	(M)	10	(M)	1	(M)	17	(M)	11	(M)	11
Taipei	(C)	95	(C)	104	(C)	–	(C)	7	(C)	43	(C)	248
	(M)	8	(M)	15	(M)	–	(M)	16	(M)	15	(M)	14
Tel Aviv	(C)	20	(C)	30	(C)	2	(C)	3	(C)	188	(C)	247
	(M)	19	(M)	30	(M)	13	(M)	36	(M)	19	(M)	20
Tokyo	(C)	102	(C)	59	(C)	1	(C)	22	(C)	311	(C)	491
	(M)	5	(M)	8	(M)	25	(M)	14	(M)	14	(M)	13
Vienna**	(C)	88	(C)	123	(C)	1885	(C)	109	(C)	772	(C)	2975
	(M)	8	(M)	14	(M)	16	(M)	14	(M)	16	(M)	16
Warsaw	(C)	234	(C)	402	(C)	1	(C)	4	(C)	237	(C)	874
	(M)	7	(M)	8	(M)	2	(M)	8	(M)	8	(M)	8
Total	(C)	17508	(C)	26631	(C)	7186	(C)	7721	(C)	57045	(C)	115662*
	(M)	11	(M)	17	(M)	15	(M)	15	(M)	13	(M)	14

Source: DW–IDSO – Produced by Operational Coordination (RIM) on 13 June, 1997
**: Total of categories does not add up due to miscoded cases*
***: All Budapest cases were remapped to Vienna as of July 96–No available/reliable data for Kiev, Tel Aviv, Buenos Aires, Havana and Lima as technical review is in process*

IMMIGRATION

Canada

Chapter OP 8
Processing Permanent Residents



Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Processing Permanent Residents

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1. INTRODUCTION

1.1 What is this chapter about?

This chapter is intended to provide officers with the procedures required to issue returning resident permits to permanent residents of Canada who have not abandoned Canada as their place of permanent residence. It is important for officers to note and fully advise applicants, that only an Adjudicator at a hearing can determine whether or not a person is a permanent resident of Canada.

1.2 Who may apply?

a) Any person who has been landed may apply for a returning resident permit. They may do so in Canada before they leave or they may do so when they are abroad at the visa section of any of our missions.

b) Persons whose intended duration of absence from Canada is less than 183 days and whose purpose in leaving Canada is clearly of a temporary nature should be advised that infrequent, brief periods of absence such as holidays of normal duration or brief visits to friends or relatives seldom jeopardize a permanent resident's right to come into Canada, so that a permit is not necessary in these circumstances. Nevertheless, if such a person continues to express a desire for a permit, he or she is entitled to apply for and receive a returning resident permit if they otherwise meet all requirements.

1.3 Application

a) Application for a Returning Resident Permit (IMM 1228) may be made on submission of an application form (IMM 1227), two photographs and payment of a non–returnable cost recovery fee. Officers should ensure that the applicant is fully informed of the non–refundable nature of the processing fee. In addition, officers should also ensure that an applicant is aware of the purpose of the document being applied for. There is often confusion in the public mind regarding the purpose of documents such as returning resident permits, confirmation of landing, permanent resident document and replacement of immigration record, etc. As each of these has a different cost recovery fee, the applicant may apply for the least expensive when a more expensive document is really what they require. Alternatively, in some cases, an applicant for a returning resident permit may not actually need it, especially if they have been outside of Canada for only a brief period of time.

   Generally speaking, confirmation of landing documents and replacement of immigration record documents should not be used for the purpose of returning to Canada from abroad. Officers should be aware of the fact that in many parts of the world our Immigration Control Officers (ICOs) advise various airlines not to board passengers who hold only these documents.

b) An officer, upon receiving such an application, should determine that the applicant was lawfully landed in Canada. The officer may also check with the Query Response Centre to ensure that no deportation order has been made against the applicant. Officers are reminded that landing port stamps in passports and certified copies of landing

records allegedly issued in Canada are not secure means of determining whether or not a person has been landed. When an applicant's status is in doubt, always check with the Query Response Centre.

c) Form IMM 1227 will be kept on file by the office at which the application was made for a period of two years from the date of issue of the permit (IMM 1228).

d) The IMM 1227 and IMM 1228 may not refer to more than one person.

1.4 Issuance

A returning resident permit may be issued to an applicant who has been landed and meets the requirements of subsection 26(2) of the Regulations. One will note that subparagraph 26(2)(c)(iv) of the Regulations gives the officer considerable leeway to issue a permit provided the officer "deems" it appropriate.

The Regulations clearly state that permanent resident employees of Canadian government bodies or Canadian institutions who are temporarily transferred overseas would qualify. In addition, the Regulations also state that persons undergoing academic, professional or vocational training and dependants of Canadian citizens or returning resident permit holders would also qualify. Nevertheless, officers will still be faced with many situations in which clearly stated guidance is not available.

The decision to issue or refuse should be made on a case by case basis employing a considerable amount of common sense. In most, but not necessarily all cases, one would expect the applicant to have taken clear measures to establish a residence in Canada before departure. One would also expect the applicant to have some clear ideas concerning the intended time they plan to return to Canada to resume their residence. In addition, one would not normally expect the applicant to have taken steps to establish any permanence in a country outside of Canada.

Before making a determination in an application for a returning resident permit, an officer may wish to gather information such as:

a) the applicant's intention when they left Canada and what was the original reason for departure?

b) the duration of the applicant's residence in Canada before departure?

c) the duration of their stay outside of Canada?

d) the reason for their continued absence from Canada?

e) the anticipated date they intend to resume their permanent residence in Canada?

f) is the applicant employed outside of Canada and, if so, are they employed by the same person or firm that employed them before they were landed in Canada?

g) is the applicant returning to employment in Canada?

h) if the applicant has other family members, do they reside in Canada? If they do not live in Canada, do they plan to return to Canada together?

i) what other attachments to Canada does the applicant have? (relatives, property, financial etc.)

1.5 Validity

a) A returning resident permit shall be valid only for the period of time stated on the IMM 1228; such period of time is not to exceed twelve months from its date of issue, unless a longer period of time to a maximum of an additional twelve months is authorized by a senior immigration officer (R26). The time period shall not be open–ended and should reflect the actual time that the permanent resident intends to be outside Canada.

b) A returning resident permit may be presented any number of times at a port of entry by the permanent resident to whom it was issued until its validity expires.

1.6 Short absences

A returning resident permit may not be withheld merely because the applicant's absence from Canada is or will be less than 183 days. An applicant whose purpose in leaving Canada is clearly of a temporary nature and less than 183 days, should be advised that infrequent, brief periods of absence such as holidays of normal duration or brief visits to friends or relatives seldom jeopardize a permanent resident's right to come into Canada. A permit is not necessary in these circumstances. Nevertheless, if such a person continues to express a desire for a permit and qualifies, they are entitled to receive one.

1.7 Renewal/Extension

The current Returning Resident Permit form (IMM 1228) has no space to authorize renewals or extensions. There is, nevertheless, nothing to prevent a person from applying for a new returning resident permit should the need arise. The same factors which governed the issuance of the original returning resident permit will apply to the issuance of any subsequent permit. [See R26(1), (2) and (3).]

1.8 Minor children

a) The Immigration Appeal Board has determined, in the case of Troy Anthony D'Souza, that one cannot accord to a child under 14 years old, the ability to form an intention to abandon (or retain) Canada as their place of permanent residence. Persons who are less than 14 years old, therefore, do not require returning resident permits to return to Canada provided they were previously landed and have not been deported or otherwise ordered to leave Canada.

b) Although not required, minors under the age of 14 (or their parent(s) for them) may, at times, apply for a returning resident permit. There is nothing to prevent an officer from issuing the permit to such a person, however, the officer should always fully inform the applicant [or their parent(s)] that the document is not required in the case of persons under 14 years of age and should only issue on the insistence of the applicant [or the applicant's parent(s)].

c) Should an applicant leave Canada while under the age of 14 then apply as soon as they are 14 years old (or at the first opportunity after their fourteenth birthday), they should be issued the permit. The phrase "at the first opportunity" is not defined and officers should use common sense in interpreting it. While the applicant may have decided to retain Canada as their place of permanent residence, they may still be dependant on their parents, financially and otherwise, at least until they complete secondary school.

1.9 Refusal

a) A visa/immigration officer shall refuse to issue a returning resident permit where they are of the opinion (concurred in by a senior immigration officer) that the applicant has ceased to be a permanent resident because he or she left, will leave, or has remained outside Canada with the intention of abandoning Canada as his or her place or permanent residence or where the applicant has had a deportation order made against them.

b) A visa/immigration officer may refuse to issue a permit to any permanent resident whose reason for leaving or remaining outside Canada is not among those listed in R26(2)(c)(ii) to (iii) and which the officer does not deem to be an appropriate reason for being absent from Canada for a lengthy period.

c) R26(2)(c)(iv) should not be given such a narrow interpretation as to preclude the issuance of a permit to virtually everyone except those whose purpose for leaving Canada is specifically referred to in R26(2)(c)(ii) or (iii). Unless the applicant's reason for absence is frivolous, or raises serious doubts concerning his commitment to Canada, or he provides no reason for his absence, he should be given the benefit of the doubt.

d) One example of the type of absence which might be deemed as not being appropriate for the issuance of a returning resident permit would be where the applicant returns to his country of origin or former residence to resume a business or position occupied before he became a permanent resident (persons who acquire permanent residence status as an edge against future events in their home country). (See also chapter PE 3, section 4.3., *Loss of permanent resident status*)

1.10 Refusal letters

It is wise to ensure that all applicants who are refused receive a written refusal. The refusal letter should always state the specific reason that the applicant has been refused and must always state that although, in the officers opinion, the applicant is not a returning resident, only an adjudicator has the authority to determine whether or not an applicant is in fact a returning resident. An example of such a refusal letter is found in APPENDIX A .

APPENDIX A
RETURNING RESIDENT REFUSAL LETTER

Dear _____

This refers to your application for a returning resident permit.

I have now completed the assessment of your application and regret to inform you that pursuant to subsections 26(3) of the *Immigration Regulations, 1978* and 24(1) of the *Immigration Act* you do not meet the requirements for a returning resident permit.

Under subsection 24(2) of the *Immigration Act*, a permanent resident who is outside Canada for more than one hundred and eighty–three days in any one twelve month period shall be deemed to have abandoned Canada as his/her place of permanent residence unless that person satisfies an immigration officer or an adjudicator, as the case may be, that he/she did not intend to abandon Canada as his/her place of permanent residence.

I have considered all factors relative to your application such as the length of time you were in Canada, the length of your absence from Canada, the reasons for your absence from Canada, and your ties to Canada such as property, relatives and financial ties among others. Based on this information, I am satisfied that you have abandoned Canada as your place of permanent residence because: (STATE SPECIFIC REASONS). A senior immigration officer has concurred in this decision.

Please note that having a returning resident permit is not a pre–requisite for admission to Canada as a returning resident, and that a final determination of your status as a permanent resident of Canada can only be made by an adjudicator.

I realize that our decision will be a disappointment to you and regret that it could not be favourable.

Yours sincerely,

(name) _____

(position) _____

Concurred in by:

(name) _____

(position) _____

IMMIGRATION

Canada

Chapter OP 9
Processing Visitors





Citizenship and Immigration Canada

Citoyenneté et Immigration Canada

Processing Visitors

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1. INTRODUCTION

1.1 What this chapter is about

This chapter explains how visa officers assess applications for visitor visas made by prospective tourists to Canada; it also explains the criteria which prospective visitors must meet.

For specific information on visitors who are seeking entry as students or foreign workers, see chapters OP 10 and OP 11.

1.2 Policy intent

The goals of the *Immigration Act* with respect to visitors are to:

- facilitate the entry of visitors for the purpose of fostering trade, commerce, tourism, cultural and scientific activities and international understanding;
- maintain and protect the health, safety and good order of Canadian society, and
- promote international order and justice by denying the use of Canadian territory to persons who are likely to engage in criminal activity (see A3).

2. VISITOR VISAS

2.1 What is a visitor?

A visitor is defined under A2(1) as a person who is lawfully in Canada as a visitor or who seeks to come into Canada for a temporary purpose and who is **not:**

- a Canadian citizen;
- a permanent resident of Canada;
- a holder of a Minister's permit, or
- an immigrant authorized to come into Canada under A14(2)(b), A23(1)(b) or A32(3)(b).

Note: A14(2)(b), A23(1)(b) and A32(3)(b) refer to immigrants who are allowed into Canada pending further examination because a Port of Entry officer cannot immediately conclude their examination. These people are not visitors.

2.2 What is a visitor visa?

A visa is a document issued or a stamped impression made on a document by a visa officer [A2(1)]. A Canadian Visitor Visa counterfoil (IMM 1346) **may** be issued to persons who qualify for a visitor visa and to the person's dependants.

The purpose of the visa is to identify the holder as a visitor, who, in the opinion of a visa officer, meets the requirements of the *Act and Regulations.*

2.3 Who may issue a visitor visa?

Visa officers may issue visitor visas. A visa officer is defined as an immigration officer stationed outside Canada and authorized by order of the Minister to issue visas [A2(1)]. Immigration officers may be appointed or employed under the *Public Service Act* or designated by the Minister [A109(1) and (2)].

Your authority to issue visas is contained in Instrument I–23 (see IL 3). In this Instument the Minister authorizes all immigration officers outside Canada to issue visas.

Instrument I–13 lists those persons designated by the Minister as Immigration Officers. In addition to Canadian immigration officers posted abroad, the following may issue visas:

- Designated Immigration Officers (DIO's);
- Diplomatic or consular officers of Canada in a country where there is no resident immigration officer appointed under A109 or during the temporary absence of an immigration officer stationed to that country; and
- Diplomatic or consular officers of the United Kingdom where there is no Canadian officer;
- Canadian diplomatic or consular officers may also issue visas to officials coming to Canada to assume their duties as representatives or officials of a foreign government or international organization [R13(3)].

2.3.1 Issuance of diplomatic and official visas at missions without RID officers

Officers of the the Department of Foreign Affairs and Internation Trade (DFAIT) may be authorized to issue visitor visas in limited circumstances.

a) Diplomatic and official visitor visas may be issued by an officer designated by DFAIT (or, in his/her absence, a designated replacement) to diplomats and official representatives of foreign countries or international organizations who are citizens of or accredited to the country in which they make their applications, and are proceeding to Canada for assignment or official business.

b) Applications for diplomatic or official visas made by persons who are not accredited to the mission's territory will be sent for approval to the responsible International Region (RID) regional processing centre (RPC), i.e. London, Paris or Rome. Unless there are grounds for refusal, the RPC will advise the mission where the application was made to issue a visa.

c) All requests for diplomatic or official visas will be accompanied by a note verbale from the applicant's ministry, mission, or organization. Applications must, of course, be processed according to the provisions of the *Immigration Act and Regulations.*

d) Applications from Special Category or Statesman Visitors will continue to be processed according to existing instructions in IC 2, *Security Vetting of Visitors*, which may include the need for photographs, visa information telegrams, and waiting periods.

e) Applications from diplomats or officials who wish to visit Canada for personnal reasons (i.e. tourism, family), will be forwarded, normally by the applicant, to the appropriate RPC for decision and visa issuance. London, Paris and Rome will inform their client missions as to the local processing/dispatch arrangements which best ensure rapid turnaround.

f) The designated DFAIT officer will be responsible for the security and accounting of visitor visa counterfoils and seals, and will keep a register of their usage. Each month, the officer will forward to the RPC a report of visas issued and copies of applications received, including the accompanying note verbale and copy of the visa. Missions must advise their RPC of the name of the designated and backup officers.

g) RPCs will provide appropriate training to designated DFAIT officers during scheduled area visits. The latter may also wish to make training arrangements in Paris, London or Rome with expenses charged to their own missions. In either case, the designated officer should identify any current needs.

2.4 Role of visa officer

As a visa officer, you are responsible for assessing applications for visitor visas, to facilitate the entry of bona fide visitors, and to deny entry to persons who are likely to constitute a threat to the safety, security and good order of Canadian society.

A visitor visa in a passport or travel document indicates to the POE officer that you have pre-screened the application and that you were satisfied that the person:

a) is not an immigrant, and

b) meets the requirements of the *Act and Regulations* for entry into Canada.

Holders of visitor visas have the right to appeal to the Immigration Appeal Division if they are refused entry at the Port of Entry [A70(2)(b)].

2.5 Who needs a visitor visa?

Every visitor, unless prescribed, must apply for and obtain a visa before appearing at a Port of Entry (POE) [A9(1)]. All visitors who are required to obtain a visa must be in possession of the visa when they appear at a POE [R13(4)].

The Governor in Council may prescribe which visitors do not require a visitor visa [A114(1)(jj)]. R13(1) is the regulation which prescribes who is exempted from the visitor visa requirement. The actual exemptions are listed in Schedule II of the *Immigration Regulations.*

2.6 Who does not need a visitor visa?

Schedule II of the *Immigration Regulation* lists the types of visitors who do **not** require a visitor visa before appearing at a POE.

Some of the exemptions apply to persons holding certain types of passports or travel documents. Chapter OP 15 provides additional information on the characteristics of these passports/travel documents.

The following is an explanation of the items contained in Schedule II. Always refer to Schedule II for legal wording and up–to–date listings:

1. citizens of the countries listed in item 1 of Schedule II do not require a visitor visa;

   ***Note:** Although item 1 will be your guide to visitor visa exemptions, you should nevertheless check items 2 through 16 when in doubt. These items sometimes specify exceptions to the exemptions, e.g. although Israel is not listed in item 1, not all citizens of Israel are visa exempt (see item 16.).*

2. British citizens and British Overseas Citizens who are re–admissible to the United Kingdom;

   ***Note:** There must be a notation in the passport e.g. "Holder has a right of abode in the U.K." or "Holder is entitled to readmission to the U.K.") (see also OP 15).*

3. citizens of British dependent territories who derive their citizenship through birth, descent, registration or naturalization in one of the British dependent territories of Anguilla, Bermuda, British Virgin Islands, Caymen Islands, Falkland Islands, Gibraltar, Hong Kong, Montserrat, Pitcairn, St. Helena or the Turks and Caicos Islands (see also OP 15);
4. persons holding passports or travel documents issued by the Holy See;
5. citizens of the United States and persons lawfully admitted to the United States for permanent residence;

   ***Note 1:** Only American passports or state birth certificates should be accepted as proof of American citizenship.*

   ***Note 2:** Alien registration card holders, i.e "green card holders" of the U.S. residing in or outside the U.S.A are visa exempt.*

   You should always check the "green card" and national passport of persons who inquire about the need for a Canadian visitor visa, particularly when the reason for the trip to Canada is doubtful. Some

persons will present fraudulent "green cards" in order to board carriers destined to Canada. When in doubt, contact the American Embassy or Consulate.

Note 3: The people of Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands are non–voting U.S. citizens and are visa exempt. Residents of American Samoa and Palau are U.S. nationals and are visa exempt.

The Marshall Islands and Micronesia concluded Compacts of Free Associations with the United States in 1986. These islands thus became self–governing. Residents of the Republic of the Marshall Islands and of the Federated States of Micronesia are neither U.S. citizens nor U.S. nationals, and require visitor visas.

9. members of a crew seeking entry to join a vessel in Canada or who are already members of a crew of a vessel destined for Canada; (see OP 15 and PE 11, *Maritime Procedures*);

Note 1: Item 6 exempts crew members only where there exists no agreement between Canada and another country to require visas for crew members. There are presently no agreements with the Government of Canada whereby crew members are required to obtain visas.

Note 2: Crew members are persons who perform duties during a voyage or trip related to the operation of a vehicle or the provision of services to passengers. A vehicle means any conveyance that is used for transportation by water, land or air. These terms are defined in the Act. Consult PE 11, Maritime Procedures for clarification if you are not sure that someone is a member of a crew and thus visitor visa exempt.

To qualify for a visa exemption Crew members should be in possession of a seaman's identity document issued under the International Labour Organization conventions, or an airline flight–crew licence or crew–member certificate issued in accordance with International Civil Aviation Organization specifications and ship or airline joining letters.

6.1 crew members in transit through Canada to join or to return from ships in a third country (see OP 15 and PE 11, *Maritime Procedures*).

Note: In addition to other proof of being crew members (see note 2. above) they must also be in possession of an onward ticket for departure from Canada within 24 hours after their arrival in Canada.

International maritime agencies or insurers may assist in verifying the authenticity of ships and their itineraries.

10. persons who are in transit through Canada on a flight that stops in Canada **solely** for the purpose of refuelling **and** who

- are in possession of a valid visa to enter the United States on a flight bound for the United States, or
- have been lawfully admitted to the United States and are on a flight originating in the United States.

11. military personnel of a country listed in the *Visiting Forces Act* and who are seeking entry to carry out official duties;

*Note: Military personnel must be in possession of official travel orders – see IR 1 list titled **Countries Designated for the Purposes of the Visiting Forces Act**.*

12. persons coming to Canada from the United States for an interview with a United States consular officer concerning a United States immigrant visa.

    Note: These persons must have evidence satisfactory to you guaranteeing re–entry into the U.S.A.

13. revoked in 1983;

14. persons in possession of valid and subsisting student authorizations or employment authorizations seeking to return to Canada from the U.S.A or St. Pierre and Miquelon where the authorizations were issued before the persons departed from Canada;

    Note: Persons who would normally require a visitor visa are exempt if they are seeking to return as visitors to Canada from the U.S.A or St. Pierre and Miquelon provided their student or employment authorizations were issued before their departure from Canada.

    They are not exempt if they are seeking to reenter Canada from a country other than the U.S. or St. Pierre and Miquelon.

15. diplomatic, consular or official representative accredited to Canada holding passports containing a valid diplomatic acceptance, consular acceptance, or official acceptance stamp issued by the Chief of Protocol, Department of Foreign Affairs and International Trade (see section 5.4);

    Note: Diplomats accredited to a country other than Canada require visitor visas if they are not visa exempt under Item 1.

16. persons admitted to Canada as visitors who visit the U.S. or St. Pierre and Miquelon, and return to Canada within the validity of their status;

    Note: The U.S. government considers Puerto Rico to have the same status as any U.S. state, and treats Puerto Ricans in the same manner as all U.S. citizens. A person who has obtained a U.S. visa is free to travel to any part of the U.S., including Puerto Rico. Hence visitors in Canada who have visited Puerto Rico are included in the visa exemption provided by section 13 of Schedule II of the Immigration Regulations.

17. Turkish diplomats holding valid and subsisting Turkish diplomatic passports;

    Note: Item 14 exempts from the visa requirements diplomats who would normally require a visa provided Canada has entered into an agreement with the diplomat's government. Although similar agreements exist with other countries, Turkey is the only one whose citizens presently require visitor visas to enter Canada (see section 5.4).

    The exemption applies to all holders of Turkish diplomatic passports, including those who are accredited to a country other than Canada and are coming to Canada for any reason, e.g. tourism.

18. Turkish citizens holding official, special or service passports seeking entry to Canada to carry out their official duties;

    Note: The agreement between Canada and Turkey covers only those holders of official, special or service passports coming to ***carry out their official duties*** *(see section 5.4).*

    Official, special or service passport holders from Turkey who wish to visit Canada as tourists or for some other reason not related to their official duties require a visitor visa, but are exempt from processing fees.

16. Only those citizens of Israel who are in possession of valid and subsisting national Israeli passports are visitor visa exempt.

    Note: An Israeli citizen who holds an orange "Travel Document in lieu of National Passport" is not visa exempt. These orange travel documents are issued to new arrivals to Israel for their first year in that country. An Israeli citizen travelling on this document requires a visa to visit Canada.

3. THE APPLICATION

3.1 The application form

Send the application kit entitled *Visitors* to clients who want to apply for a visitor visa. It contains a guide book: *Applying for a visitor visa (C&I–058),* and an application form: *Application for a Visitor Visa (IMM 5257).*

Alternatively, you may provide clients with a copy of form *IMM 1296, Application for Temporary Entry to Canada (Visitor Status).*

Those who simply inquire about visitor requirements should be given the brochure *IM–080–06–93, Do you want to visit Canada?*

3.1.1 Who does not need to complete an application form?

All applicants for a visitor visa should complete and sign an application for a visitor visa. There are rare exceptions:

a) applicants for a visitor visa may apply on behalf of their accompanying dependants [A9(1.1)]. Children 19 years and over must complete their own application form.

b) senior diplomats or heads of state or government applying to enter Canada in their official capacity may be exempted, but only where insistence on a completed form will create hardship, embarassment or an international incident. In these cases, you may accept an application in an alternate format, as long as sufficient information is provided to ensure a sound decision. For example, you may issue a diplomatic, official or courtesy visa on the basis of a note from a foreign ministry, embassy, or international organization if sufficient information is provided. Private visits should always be documented on an application form.

3.1.2 Returning the application form

Application forms may be dropped off, presented in person or mailed to any Canadian mission with visitor visa facilities. The client guide provides details of these three methods.

Applications should be submitted to the mission responsible for the applicant's place of permanent or temporary residence to facilitate interviews when necessary.

IR 6, *Immigration Service Delivery Network Abroad* contains a complete listing of missions with visitor visa processing facilities where applications may be returned.

3.2 Resident status of applicants

The immigration status, whether legal or illegal, of prospective visitor visa applicants in the country in which they are physically residing has no bearing on their ability to submit an application. Obviously the bona fides of applicants who are illegally in the country of application should be closely scrutinized.

Since applicants must be prepared to present themselves for interview if necessary, they should be encouraged to return their application to a mission responsible for the applicant's place of residence, whether permanent or temporary.

3.2.1 Advice to non–resident applicants

Applicants temporarily residing in third countries may encounter delays in the processing of their application as a result of the necessary background inquiries and the routine checks that may be made with the visa office in the person's country of citizenship and/or residence.

You may inform non–resident applicants that their case will receive the same priority as any other application, no more and no less.

For more information see OP 1.

3.3 Processing priorities

Visitor visa applications will be given as much priority as possible within the restraints imposed by the immigrant levels for the post.

When application forms are presented in person, processing will most often be done the same day unless the person is from a country where special procedures apply (see IC 2, *Security Vetting of Visitors*).

3.4 Screening the application

On receipt of the application review it to determine:

- if the applicant is indeed eligible for a visitor visa (see section 2.6);

  Note 1: *If the issuance of a visa will facilitate the travel of a visa–exempt person, you may issue a visa if you are satisfied that all requirements have been met (see IC 3, General Operating Procedures: Not Open for Public Scrutiny, on when to issue facilitation visas and the coding of such visas).*

  Note 2: *Before returning a passport to a person who does not require a visitor visa, check to ensure that the passport is genuine and does not contain a photo substitution. Non bona fide visitors sometimes present passports of countries whose citizens do not require visas as a test to see if the passport is likely to be accepted by a transportation company.*

- if the applicant requires a student or employment authorization in addition to the visa.

  Note: *See OP 10 and OP 11 for guidance on situations where it is appropriate to issue only a visitor visa (rather than an employment or student authorization) to persons who will be working or studying in Canada.*

- if the appropriate processing fee has been provided.

3.5 Processing fees

Refer to IR 5, *Immigration Cost Recovery Processing* for complete details on processing fees and exemptions.

The following is a summary of information contained in IR 5:

- Processing fees vary according to the type of visitor visa: single–entry visa, multiple entry visa or collective certificate (groups of five or more travelling together).
- Citizens of certain countries are fee exempt.
- Processing fees are non–refundable even if the application is refused; the fee is for processing, not for the decision.
- There is no fee for a visitor visa if an employment or student authorization is issued at the same time. Slightly different rules apply to entertainers.

- Transit visas are fee exempt.
- Collective certificates issued as transit visas or to groups entering Canada from the U.S.A. for less than 48 hours are fee exempt.
- Courtesy visas are not automatically fee exempt. A fee is applicable if the person is not listed in ANNEX 4 to IR 5.
- Visitor visas issued to diplomats are always fee exempt, whether the purpose of the visit is official or not.

3.6 Supporting documents

After initial screening of the application, review the application to ensure it is complete and that the necessary supporting documents are included. These are:

a) a valid passport or travel document or identity document that guarantees re–entry to the country that issued it;

Note: If the government that issued their passport or travel document requires a re–entry permit, applicants must obtain this permit before applying for a visitor visa.

b) recent passport size photos for each family member (the name and date of birth of the person should be written on the back of each photo);

Note: R43 requires visitor visa applicants to provide with their application the number of clearly identifiable photographs of themselves that may be reasonably required. All missions must ensure that photos are provided. You may be asked to assist in investigations by providing an applicant's photo to port of entry and inland immigration offices.

c) proof of funds available to support the visitor and dependants during their stay and to enable the person to leave Canada such as a bank statement, pay stubs or proof of employment or proof of traveller's cheques;

d) children under 16 years of age who are travelling alone must have information on the person who will be responsible for them. If the child is the subject of a custody order or is travelling with one parent, proof of custody and/or the other parent's consent for the trip must also be provided. Minors travelling without their parents require a letter of permission to travel from the non–accompanying parent(s);

Note: Your first duty when children are travelling with only one parent or with a relative/friend, is to ensure that the child is not being abducted from its lawful guardian.

e) other documents as required, e.g.

- letter of invitation or other explanation for the trip;
- evidence of links to the home country.

Note: Persons who are not citizens of the country in which they are residing should also provide proof of their present immigration status in the country of application.

3.7 Records check

Ensure that the application is checked against existing immigration and visitor file records and against the Enforcement Information Index.

If the applicant is a non–resident of the country of application, decide whether or not to contact the visa office responsible for the country of citizenship or of normal residence to request a records check.

Determine if additional security checks are required (see IC 2, *Security Vetting of Visitors*, for Special Category and Statesman procedures).

4. DECISION ON THE APPLICATION

4.1 Legislative basis

This section deals with the legal framework which allows you to assess visitor visa applications and to either issue the visa or refuse the application.

4.1.1 A8(2) – The general presumption

The general presumption of A8(2) is that every person seeking entry into Canada is presumed to be an immigrant until that person satisfies the immigration officer examining him that he is not an immigrant.

Please note that A8(2) must never be used in refusals of visitor visa applications as it is worded in the context of a visitor seeking entry at a Port of Entry (reference – Grewal decision).

Applicants who cannot satisfy you that they are not immigrants must be refused under A9(2.1).

> ***Note:*** *Issuing a visitor visa does not remove the presumption of A8(2). It continues to apply to all visitors when they arrive at the port of entry. The difference is that holders of visitor visas have the right to appeal a refusal of entry to the IAD [A70(2)(b)] (see EC 5, IAD Appeals and CRDD Refugee Determination Hearings).*

4.1.2 A9(1.2) – Burden of proof on visitors

The person who makes an application for a visitor visa has the burden of satisfying you, the visa officer, that he or she is not an immigrant. The onus is never on the visa officer to prove that the person is an immigrant.

> ***Note:*** *An immigrant is defined as a person who seeks landing. Landing is defined as lawful permission to establish residence in Canada.*

If you are not satisfied that the person is not an immigrant, you cannot issue a visitor visa (see refusal letter at APPENDIX D).

> ***Note:*** *Some visitor visa applicants may nevertheless have the dual intent of being both a visitor and an immigrant. Section 4.2 explains how to deal with this situation.*

4.1.3 A9(2.1) – Assessment by a visa officer

A9(2.1) gives you the authority to assess applications for a visitor visa to determine whether the applicant and every accompanying dependant of that person appear to be persons who may be granted entry.

> ***Note:*** *Entry is defined as lawful permission to come into Canada as a visitor [A2(1)].*

In addition to specific requirements relating to visitors, prospective visitors are also subject to all provisions of A19. Entry is prohibited to persons who are described in the inadmissible classes of A19. See OP 17 for details.

> ***Note:*** *A19 refers to persons who cannot be granted* ***admission****. The Immigration Act defines* ***admission*** *as meaning either entry (for visitors) or landing (for immigrants).*

- Is it reasonable for the visitor to be staying with the host, for the period indicated?

Note: When visitors are planning to stay with friends or relatives, ensure that the host is not only willing, but also able to provide for the visitor for the period indicated.

To determine how much money the person requires, you should clarify the type of trip envisaged and the duration:

- Will the person be travelling within Canada? For how long?
- What is the source of funds: traveller's cheques or credit cards?
- Are there currency restrictions in the home country?

g) Will you be able to leave Canada?

You must be satisfied that the applicant will be able to return to the home country or to proceed onward to a third country [R13(2)]

- Does the person have the financial ability to return, such as an airplane ticket, money or a statement of bank assets?
- Does the person have a passport, travel document and/or visa which will allow the person admission to the home country or to a third country [R13(2)].

Note: Under R14(6), visitors may be required to produce sufficient ***documentary evidence*** *to establish to the satisfaction of a Port of Entry officer that they will be able (a) to return to the country from which they seek entry, or (b) to go from Canada to some other country.*

Persons who require a visa to reenter their home country or a third country will be limited at the POE to a visit which does not exceed the validity of their re–entry visa.

h) Do you intend to work or to study in Canada

Barring a few exceptions, most visitors who work or study in Canada must have an employment or student authorization before arriving at a POE (see R14.1 for students and R18(1) for temporary workers).

i) Have you ever been convicted of a criminal offence?

Is the person described under the criminality sections of A19?

See OP 17 for determining if a person is inadmissible under A19. See OP 18 to determine if approval of rehabilitation is warranted or if a pardon can be obtained. See OP 19 for criteria for issuing Minister's permits to inadmissible visitors.

j) Is the person described under the security provisions of A19?

See OP 17 for determining if a person is inadmissible under A19 on security grounds and IC 2, *Security Vetting of Visitors* for details of security screening for visitors.

k) Do you suffer from a serious medical condition?

Does the person meet the medical requirements under R21?

See section 4.6 which explains who must undergo a medical examination.

l) Have you ever been refused a visitor visa to travel to Canada?

The answer to this question will help you determine if the person is an intending immigrant and will also support a refusal under A9(3) – the requirement to answer truthfully.

m) Were you ever removed from Canada or any other country?

Does the person require Minister's consent to return to Canada (A55).

See OP 17 for guidance on when and how to grant Minister's consent.

4.4 Special visitor situations

4.4.1 Long–term visitors

Some visitors plan to live in Canada more than six months and up to one or more years, e.g. spouses of foreign students or elderly parents of Canadian citizens.

In addition to assessing these applicants against normal visitor requirements, you should also satisfy yourself that the host is able to support a long–term visitor and that medical emergencies have been covered.

4.4.2 Ability to support

Try to determine whether or not the host is receiving social assistance. If not receiving social assistance, does the host have a stable source of income?

A record of past employment history will help you determine stability of employment. If hosts have considerable savings but low and/or unstable incomes, try to determine if these funds have been borrowed.

Requesting consecutive bank statements is one way to determine that funds are not borrowed specifically to inflate bank accounts for the purpose of the visa application. Hosts should also be able to account for deposits in excess of what they could reasonably be expected to have saved based on their income.

Please refer to OP 10 on how to estimate living expenses for students and their dependants.

In other cases, assuming you are satisfied that the host's employment is stable and income honestly presented, you should compare the host's income with the low–income cut–off figures found in IR 2 to determine if the host has sufficient income to support a long–term visitor.

Although spouses of students are entitled to an employment authorization when they arrive in Canada, finding employment is not a certainty. The dependant's eligibility to work in Canada should not form the basis for a decision that funds will be available.

Please note that the Canadian International Development Agency (CIDA) does not provide funds for the support of the spouses of students sponsored by this agency.

4.4.3 Medical emergencies

When assessing long–term visitors, bear in mind that no Canadian province provides provincial medical insurance for tourists and most do not cover students or their dependants. Definitive information on provincial coverage may be obtained from the Immigration Health Policy Division (SSM) of Selection Branch.

Before issuing a visa to any long–term visitor, ensure that the person is adequately covered for medical emergencies by means of appropriate insurance or evidence of having sufficient funds.

Note: Pre–existing conditions are usually not covered by insurance.

4.1.4 A9(3) – Duty to answer questions

A9(3) requires every person to answer truthfully all questions which you put to that person and to produce such documentation as may be required by you for the purpose of establishing that their admission would not be contrary to the *Act* or the *Regulations*.

> ***Note:*** *An application may be refused under A9(3) if the person provides false information which is materially relevant to the application. Be sure to determine whether or not the false material is relevant before refusing under A9(3).*

Where the falsehood is not directly related to the application, it may still reflect on the applicant's general credibility and lead you to believe that the person is an immigrant rather than a visitor [see A9(1.2)].

4.1.5 A9(4) – Authority to issue a visitor visa

A9(4) states that where you are satisfied that it would not be contrary to this *Act* or the *Regulations* to grant entry to a person who has made an application for a visitor visa and to the person's dependants, you **may** issue a visa to that person and to each of that person's accompanying dependants.

> ***Note:*** *The word* ***may*** *implies that you should apply the spirit of the Act and Regulations when determining whether a visa should be issued. The permissive nature of A9(4) allows a visa officer to exercise discretion and not issue a visa notwithstanding the fact that the applicant technically meets all statutory requirements, if the issuance of the visa would be detrimental to Canadian interests.*

Such refusals should be done only when no other recourse is possible and only for very good reasons. Recent amendments to the *Immigration Act* concerning acts and omissions should make recourse to discretionary refusal unnecessary.

4.2 Visitors with immigrant applications pending

The fact that a prospective visitor has an immigrant application pending or is planning to apply for permanent residence is not, in itself, grounds to refuse to issue a visitor visa. A person may have the dual intent of immigrating and of abiding by the immigration law respecting temporary entry. The person's desire to visit Canada is very often legitimate.

You will need to distinguish between legal and illegal immigrants. Illegal immigrants are those who have no intention of leaving Canada should their immigration application be refused.

In cases where the person wants to await in Canada the outcome of an immigrant application, you should keep in mind the time required to process an immigrant application: the length of time will affect the applicant's means of support, obligations at home, and likelihood of leaving Canada if the application is refused.

4.3 Assessing the application

Listed below are some of the areas which you should explore with applicants. The purpose of these questions is to determine:

- if applicants have the intention of remaining in Canada illegally or seeking some other status in Canada, e.g. refugee status or applicant for landing in Canada under R2.1 for humanitarian or compassionate grounds, **or**

- if the ties to their home country are sufficiently strong to ensure that they are motivated to return home after the visit to Canada, and
- that they meet the requirements of the *Act* and *Regulations*.

a) What is the purpose of your trip?

- What will the person be doing in Canada? At interview, confirm the reason for the trip as stated on the application form.
- What are the applicant's plans for visiting Canada? Are the plans well thought out or are they frivolous? Remember that although not all persons visiting Canada will have detailed plans, they should normally have some idea of what they will be doing;

b) How long will you be staying in Canada?

- What is the duration of the visit?
- Is the time requested definitive? indeterminate?
- Considering the applicant's situation in his or her home country, and the purpose of the trip, is the time requested reasonable? plausible? practical?

c) What ties do you have with Canada?

- Who invited the person to Canada? Is there proof of an invitation?
- What family does the person have in Canada? What is their immigration status in Canada?

d) What ties do you have with your country of residence?

- Is the person employed? if yes, at what salary? in what position? Has the applicant's employer approved a request for leave?
- What family does the person have in the country of residence? Where are they at the time of the application?
- Does the person have property? What is the value of property?
- What financial obligations is the person leaving behind? What is the value, the type of obligation?
- What other responsibilities and obligations is the person leaving behind? How will they be discharged?
- Is travel consistent with local customs or practices? Has the person travelled before?

Note: Even if the person's ties to the home country seem to be strong, there may be other factors in the general economic or political environment which make the long term prospects for the person or their family unstable. You should consider these factors in your assessment.

e) Do you have a valid passport or travel document?

See section 4.5 and OP 15 for additional information

f) How will you support yourself in Canada?

Visitors must have enough funds to maintain themselves in Canada without resorting to illegal employment or social assistance [A19(1)(b)] (see also section 4.4.1).

- Does the client have the means to support himself or herself or is someone else willing and able to provide adequate support?
- Is the person staying in hotels or with relatives or friends?

Adequate medical coverage or evidence of funds to cover medical emergencies for long–term visitors is very important in view of medical costs in Canada; lack of medical coverage may constitute a reason for refusing an applicant under A19(1)(b).

4.4.4 Business persons and business delegations

More and more visitors wish to investigate business opportunities in Canada. This type of visit is encouraged; one of the Department's goals in to facilitate the entry of business visitors and delegations to foster trade and commerce. However, some prudence is required before issuing visitor visas to business applicants whose track record is unknown.

You should determine whether or not the business visitor has the ability to undertake the business proposed in Canada. Checking with the trade section of the mission to obtain their opinion as to the legitimacy of the companies is one method of verifying the visitor's background. Organizers of the delegation and supporting companies should be asked to provide fairly extensive documentation in support of the visit.

Random interviews of individuals may be necessary to ensure that the delegation is genuine.

An assessment of the bona fides of the inviting enterprise in Canada may be necessary as some invitations may be made specifically to facilitate the entry of male fide visitors to Canada.

Any post dealing with business travellers originating outside its area of jurisdiction should carefully scrutinize all documentation and, where bona fides are questionable, request assistance from the post responsible for the applicant's normal place of residence.

4.5 Passports and travel documents for visitors

To enter Canada most visitors must be in possession of a valid and subsisting passport or other travel document which allows the person re–entry to the country which issued the document [R14(3)]. The exceptions are found in R14(4). See also OP 15.

This requirement ensures adequate identification of the visitor, and guarantees the person's readmission either to the country that issued the passport, or identity or travel document, or to another country. It is your duty to ensure that travel documents are acceptable for travel to Canada and that they guarantee readmission to another country before issuing a visitor visa.

Please note that diplomatic, consular, official and service passports meet the passport requirements for visitors.

4.5.1 What does "valid and subsisting" mean?

The expression "valid and subsisting" appears in several Immigration Regulations, e.g. valid and subsisting passport, valid and subsisting employment or student authorization.

a) **Valid** means that:

- the document is genuine, as opposed to a fraudulent or altered document,
- was legally issued by the proper authority;
- was legally obtained and not exchanged so as to render it invalid;

- is acceptable for travel to Canada;

b) **Subsisting** means that a genuine (valid) document:

- continues to exist, i.e has not been cancelled or revoked;

For the purpose of issuing visitor visas, the passport's validity date must not have expired. However, for other purposes, such as deportation or for landing members of the deferred removal orders class, passports may be expired; these passports are subsisting because they still exist.

For a complete explanation of what constitutes a valid passport or travel document to visit Canada, see OP 15.

4.5.2 Identity and travel documents for visitors

Some prospective visitors will not be in possession of a national passport. In these situations, an identity or travel document may be acceptable for travel to Canada [R14(3)(b), (c) and (d)].

To be acceptable in lieu of a passport, a visitor's identity or travel document must be:

a) a valid and subsisting travel document issued to that visitor by the country of which the visitor is a *citizen or national* and recognized by the country of issue as giving that visitor the right to enter the country of issue [R14(3)(b)], or

b) a valid and subsisting identity or travel document that:

- was issued to that visitor by a country which recognizes that the visitor has the right to enter the country of issue, and
- is of the type issued to *non–national residents* of the country of issue, *refugees or stateless persons* who are unable to obtain a passport of other travel documents from their country of citizenship or nationality, or who have no country of citizenship or nationality, [R14(3)(c)], or

c) a valid and subsisting identity or travel document issued to that visitor and specified in item 2 of Schedule VII of the *Immigration Regulations* [R14(3)(d)]. These are:

- a laissez–passer issued by the United Nations;
- a document issued by the Organization of American States entitled Official Travel Document;
- a passport issued by the Government of the United Kingdom to a British Overseas Citizen; and
- a passport/travel document issued by the Palestinian Authority.

Note: Do not confuse this document with a document purported to be issued by the All Palestine Government which is not valid for travel to Canada under item 3 of Schedule VII.

4.5.3 Invalid passports, travel and identity documents

Some passports, travel documents and identity documents are not considered valid and subsisting for the purpose of visiting Canada. These documents are listed in item 3 of Schedule VII to the Immigration Regulations. They are:

- any passport, identity or travel document purporting to be issued by Bophuthatswana, Ciskei, Transkei, or Venda.

- any passport, identity or travel document purporting to be issued by the All Palestine Government.

  Note: *This document must not be confused with a passport/travel document issued by the Palestinian Authority which is valid for travel to Canada (see item 2 of Schedule VII).*

- any passport issued by the Government of the United Kingdom entitled "British Visitor's Passport".

4.5.4 When is a passport or travel document not required?

Normal passport, identity or travel document requirements for visitors do not apply to the following persons [R14(4)]:

a) a visitor who is a citizen of the U.S.A;

   Note: *You should not accept as proof of American citizenship any document other than a passport or a state birth certificate.*

b) a visitor seeking entry from the U.S.A or St. Pierre and Miquelon who has been lawfully admitted to the U.S.A for permanent residence;

c) a visitor seeking entry from Greenland who is a resident of Greenland;

d) a visitor seeking entry from St. Pierre and Miquelon who is a citizen of France and a resident of St. Pierre and Miquelon;

e) a member of the armed forces of a state designated for the purposes of the *Visiting Forces Act* who is seeking entry to carry out official duties for a visiting force of that country or for the Canadian forces;

   Note: *This does not apply to a person who has been designated as a civilian component of that visiting force. Persons in the civilian component require a passport or travel document. For a list of countries that have been designated for the purposes of the Visiting Forces Act, see IR 1 list titled* ***Countries Designated for the Purposes of the Visiting Forces Act.***

f) a visitor who is seeking entry as or in order to become a member of the crew of a vehicle and who is in possession of a seaman's identity document issued to him or her under International Labour Organization conventions, or an airline flight–crew licence or crew–member certificate issued to him or her in accordance with International Civil Aviation Organization specifications.

4.6 Medical requirements for visitors

Every visitor of a prescribed class is required to undergo a medical examination [A11(1)].

Visitors who meet the following two conditions are required to undergo a medical examination:

- if they are seeking entry for a total period of more than six consecutive months, including an actual or proposed period of absence from Canada of less than 14 days [R21(1)(b)(i)], *and*

  Note: *If they are absent less than 14 days, they must still undergo a medical examination. If they are absent for more than 14 days, they do not have to undergo a medical examination.*

- they have resided or sojourned, at any time during the one–year period immediately preceding the date of seeking entry, for six consecutive months in an area that in the opinion of the Minister of

National Health and Welfare (sic) has a higher incidence of serious communicable disease than Canada (see IR 3, *Medical* for a chart showing medical requirements and details by country) [R21(1)(b)(ii)].

You may also require any visitor to undergo a medical examination if you have reason to believe that the person has a medical problem [A11(2)], particularly if you also believe the person *may* remain in Canada longer than six months and has resided six months or more in a country where the incidence of communicable disease is higher than in Canada.

4.6.1 Inserting medical details in the passport

On arrival at a POE every person listed above must be in possession of a valid certificate of medical assessment stating that the person is not a member of a class described in A19(1)(a) [see R21(4)].

This requirement is met by inserting medical details in the person's passport, below the visitor visa counterfoil, as follows: medical code, medical file number and validity of medical results, e.g. M–1 (HKK 95008642) 19.07.96.

Note: Some persons may be required to undergo a medical examination prior to entering Canada but are visitor visa or even passport exempt. These persons should be provided with a letter for the POE which includes medical examination results. Please note that CPC Vegreville does not require a copy of this letter as it has a CAIPS terminal which allows it to review medical information prior to issuing visitor extensions.

4.6.2 Visitors who do not have to undergo a medical examination

The following visitors are exempt from having to undergo a medical examination even if they are from countries where they would normally have to undergo a medical examination [R21(2)].

- diplomatic/consular officials entering for official duties only;

  Note: Private servants of diplomats and officials must undergo a medical examination, but a member of the service staff is exempt. They are entering on official status.

- dependants of diplomatic/consular officials unless the dependant intends to work;
- members of the Armed Forces of a country designated for the purposes of the Visiting Forces Act entering for official duties only (see IR 1 list titled **Countries Designated for the Purposes of the *Visiting Forces Act***).

4.6.3 Medical treatment in Canada

Procedures for assessing visitors who wish to obtain medical treatment in Canada are found in OP 14.

4.7 Interviewing applicants

The authority for interviewing visitor visa applicants is found in R22.1(2).

An interview may be conducted at the visa office where the application was submitted or at any other appropriate location specified by you, the visa officer.

As long as the interview is for the purpose of "assessing the application", you may require the presence of the applicant and accompanying dependants at the interview.

There are no legislative guidelines or limitations upon what is considered "appropriate". Nevetherless, you should have reasons for requiring the presence of dependants at an interview.

You should interview a client when there are questions or doubts concerning:

a) the applicant's reasons for wishing to go to Canada;

b) the arrangements made for the person's care;

c) the person's ability or willingness to leave Canada; or

d) the person's admissibility to Canada, whether for medical, criminal or security reasons.

4.8 Procedural fairness

When assessing visitor visa applicants you must apply the principles of "procedural fairness". Procedural fairness means that the applicant must know the case that he or she has to meet. You have a duty to explain your concerns to applicants and to afford them an opportunity to respond and clarify any discrepancies. For more information on procedural fairness, see OP 1.

4.9 Interpreters

The duty to act fairly includes the duty to ensure that the person understands what is expected of him or her. If necessary, you should wait until an interpreter is available before interviewing or refusing the applicant. An interpreter may be a locally engaged staff member, a friend or relative of the applicant or any other person who can communicate with the applicant and visa officer.

If an interpreter is used, enter details in your case notes.

4.10 Canadian Human Rights Act and visitor assessments

Discrimination means treating people differently, negatively or adversely without a good reason (bona fide justification). You are prohibited from discriminating against visitor visa applicants by the *Canadian Human Rights Act* (CHRA).

Prohibited grounds include: race, national or ethnic origin, colour, religion, age, sex, marital status, pardoned conviction, physical or mental disability.

Visa officers are required to differentiate between people on some of these grounds. Discriminatory decisions are allowed under section 15(g) of the Human Rights Act if they are "bona fide justified". This means that there is a "good reason" for the apparently discriminatory decision.

For example, the Federal Court of Appeal held in a medical refusal case that the existence of section 19(1)(a) of the *Immigration Act* mandates what might otherwise be considered a discriminatory practice. This being the case, the Court held that the "question for consideration by the CHRA was not whether (the medical officers's) opinion was probably right, but whether, in carrying out their duties, the medical officers engaged in a discriminatory practice that is not likewise "bona fide justified", i.e. did the medical officers look at extraneous details other than the applicant's medical condition.

In general, then, it is important not to rely solely on "profiles" to refuse a visitor visa applicant. Ensure that your refusal is based on the characteristics of the individual with whom you are dealing and not on

sweeping generalities of all persons of that race, national or ethnic origin, colour, religion, age, sex, marital status, or who have been pardoned or who have a physical or mental disability.

Document your decision in your case notes, **ensuring that you looked at the applicant as an individual** (see also section 6).

4.11 High profile cases

All high profile or possibly controversial cases must be reported to Case Review (BCM) in Case Management Branch (BCD) with a copy to the responsible geographic bureau in RID. BCD will channel the information to the Minister's office. See OP 1 for more information.

In cases involving security risks information must be sent to the Security Review (BCZ) of BCD with a copy to the International Region geographic desk and DFAIT/ISSR prior to issuing a visitor visa. This includes persons who, if admitted to Canada, may arouse controversy or be potential targets for physical threats as well as persons who may be security risks.

Include full name and date of birth and other details as appropriate. Do not finalize these cases until the geographic bureau confirms that no objections have been expressed to the visit.

5. ISSUING THE VISA

This section should be read in conjunction with IC 3, *General Operating Procedures: Not Open for Public Scrutiny* and IC 2, *Security Vetting of Visitors* which tell you, respectively, how to code visas and how to process applications from citizens of Special Category and Statesman countries.

Procedures for securing visas, for ordering them and for reporting lost or stolen visas are also found in IC 3.

5.1 Types of visitor visas

Applicants indicate on their application form if they wish a single–entry or multiple–entry visa. Processing fees are higher for multiple–entry visas.

You should normally grant a multiple–entry visa if the applicant has requested and paid the processing fee for multiple entries to Canada. If you have doubts about issuing multiple entries, it is preferable to refuse the application than to compromise and grant a single entry visa.

Keep in mind that persons issued single–entry visas and who have valid status in Canada may return from the U.S.A. within the validity of their status without having to obtain a second visitor visa.

5.1.1 Single–entry visas

Single entry visas may be issued up to six months before the expected date of travel.

The expiry date on single entry visas should be at least one month after the expected date of arrival in Canada.

5.1.2 Multiple–entry visas

The maximum validity date for multi–entry visitor visas is up to five (5) years. However, for the sake of consistency in view of the higher processing fee, multiple–entry visas will normally be issued for a maximum of three (3) years (or one month prior to the expiry date on the passport/re–entry visa, whichever is earlier).

5.2 Duration of visits

The visitor visa counterfoil does not have a space to indicate a suggested duration of a visit. POE officers will routinely grant entry for a period of six months to a person requesting entry as a visitor, even where the person requests entry for a very brief period (A26(2)and R24.1).

In rare cases you may indicate a suggested duration just below the visa; however there is no certainty that the POE will limit the duration as suggested.

In view of this, consider that when you issue a visitor visa it is very likely that the person will be allowed to remain in Canada for six months. When in doubt that the person is a bona fide visitor, do not issue the visa, not even transit visas.

5.3 Counselling

Counselling of clients will be done mostly in writing. The client guide in the application kit provides some information. An information sheet (see APPENDIX C – IMPORTANT) may be inserted with returned passports and travel documents. This information sheet may be ordered in the same way as other publications. It covers the following points:

- duration of the visit is for six months unless otherwise specified;

- necessity to apply for an extension of status at least four weeks before the expiry of the visitor status;
- how to apply for an extension.

Note: If the passport will expire during the person's visit in Canada, counsel the applicant to apply for a new passport prior to leaving for Canada.

5.4 Diplomatic and official visas

5.4.1 General rule

Persons travelling on diplomatic or official passports require visitor visas **only** if they are citizens of a country requiring a visitor visa. This rule applies whether they are coming to Canada on a posting, or are simply visiting, e.g. to attend a conference or for tourism.

5.4.2 Advantage of a visa

Diplomats and officials from countries which are visa exempt are not required to obtain a diplomatic visitor visa prior to a posting to Canada, but are strongly encouraged to do so. A diplomatic visa facilitates their entry to Canada by indicating to POE officers that they are entitled to diplomatic privileges. There is no processing fee for diplomatic visas.

5.4.3 Turkish diplomats

Diplomats and officials from Turkey do not require a visitor visa although citizens of Turkey require visitor visas to enter Canada. For a full–explanation of this exemption see section 2.6.

5.4.4 Who is entitled to diplomatic or official visas

For details on who is entitled to a diplomatic or official visa see the old Chapter 10 of the Consular manual entitled "Diplomatic and Official Visas". This chapter is being revised by the Office of Protocol at DFAIT. Until it is published you may consult the Office of Protocol (XDC) at DFAIT or Selection Branch, NHQ when in doubt.

5.4.5 POE procedures

When diplomats or holders of official passports arrive in Canada, Customs officers will simply stamp their passports, thereby authorizing entry for a period of six months (A26(2) and R24.1). They will not refer them to secondary examination nor document these persons.

5.4.6 Role of Office of Protocol

During the six–month period, the person's mission will forward the passport to the Diplomatic Corps Service, Office of Protocol, Department of Foreign Affairs and International Trade. The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance, which indicates that the person is accredited to Canada and entitled to remain in Canada for the duration of status.

5.4.7 Visa exemption for accredited persons

Once accredited, these persons do not require a visitor visa to enter Canada *[item 12 of Schedule II of the Immigration Regulations]*.

5.4.8 Dependants of diplomats

The definition of "dependant" in R2 applies to the children of diplomats, consular officers, representatives or officials.

Dependent children of diplomats, consular officers, representatives or officials who are under 19 years of age and considered to be "members of the family forming part of the household" will be issued acceptances. Children over 19 years of age will be issued acceptances only if they are registered as full–time students. After 25 years of age dependants are no longer eligible to receive official acceptances (even if they are still studying), and must change their official status to a regular immigration status.

5.4.9 Servants of diplomats

Foreign domestics for heads of mission, diplomatic or consular agents, or official representatives can be one of the following three types:

- Members of the Service staff;
- Private servants, and
- Live–in Caregivers.

Members of the Service staff and private servants are issued official (O–1) visas and upon presentation to the Office of Protocol at DFAIT will receive an official (J) acceptance. They therefore do not require a visitor visa if they wish to reenter Canada.

They do not require employment authorizations.

Private servants must undergo a medical examination while members of the staff are exempt from medical examination requirements.

Live–in caregivers must meet the requirements to be live–in caregivers in Canada. They must undergo a medical examination and are issued an employment authorization. A live–in caregiver working for a diplomat does not enjoy any privileges or immunities and therefore may require a visitor visa to re–enter Canada.

Additional details concerning eligibility to be the servant of a diplomat and terms of employment are described in Circular Note XDC–2197 concerning the employment of foreign domestic workers.

OP 11 provides guidance on employment requirements for diplomatic servants, while OP 13 explains how to assess them under the Live–in Caregivers in Canada class.

5.5 U.S. government officials

The following official U.S. government personnel assigned to temporary postings in Canada are not issued diplomatic or official acceptances in Canada and therefore are not eligible for diplomatic visas:

- United States Immigration and Naturalization Service officers
- U.S. Customs officers
- International Joint Commission employees
- U.S. Federal Grain Service inspectors of the U.S. Department of Agriculture, and
- other U.S. government officials in possession of official U.S. government passports and assigned to temporary postings in Canada.

U.S. government employees will be issued employment authorizations under R20(5)(b), and as such are validation exempt (code B–10). For more information on the documentation of U.S. government employees, see chapter PE 7, *Examining Foreign Workers*.

5.6 International Civil Aviation (ICAO)

Officials of the International Civil Aviation (ICAO) may be eligible for diplomatic visas. Chapter 10 of the Consular manual – *Diplomatic and Official Visas* explains which members of ICAO are eligible for diplomatic visas. ICAO members must not be confused with members of IATA (see section 5.7 below).

5.7 International Air Transport Association (IATA)

IATA is an association of over 220 of the world's airlines, with headquarters in Montreal. Its mission is to represent and serve the airline industry. Its goals include promotion of safe, reliable and secure air services, provision of industry–required products and services, and development of cost–effective and environmentally–friendly–standards and procedures to facilitate the operation of international air transport.

In recognition of the importance of IATA as an organization fostering international air transport, the government of Canada on 22 September 1987 concluded with IATA a memorandum of understanding regarding IATA operations in Canada. Article 2 of this memorandum provides that "the Canada Employment and Immigration Commission, with the assistance of Canada's visa officers abroad, undertakes, subject to Canadian Immigration legislation, to facilitate the processing of applications for:

a) entry into Canada by representatives of airlines or organizations coming into Canada to attend meetings and conferences of IATA and its affiliated or subsidiary branches, whether or not those airlines or organizations are members of IATA;

b) permanent resident status made by officers or employees of IATA and their dependents;

c) employment authorizations, when circumstances warrant, made by officers, employees or specialists contracted to IATA.

IATA representatives who are citizens of countries subject to Canadian visitor visa requirements, should be provided with every courtesy when they apply for a visitor visa. They are not eligible for diplomatic visas, but should be issued Courtesy Visas (see section 5.8 below)

Courtesy visas should be multiple–entry and long–term, i.e. (3) years, except for citizens of Special Category and Statesman countries where multi–entry visas cannot be issued.

Program Managers are encouraged to contact local international carriers to make them aware of time frames and requirements involved in sending representatives to IATA conferences, particularly for citizens of countries where additional visitor requirements are in effect (see IC 2, *Security Vetting of Visitors* for Statesman, Special Category and NARVIT procedures).

5.8 Courtesy visas

You may issue courtesy visas to persons who, although not entitled to diplomatic privileges and immunities, are by reason of their position or reason for coming to Canada considered of sufficient importance to warrant a visa to facilitate their admission. Examples of the appropriate use of courtesy visas include issuance to persons of diplomatic rank coming

to Canada for tourist purposes, to members of IATA, to members of a trade mission visiting Canada, and to well–known visiting professors coming to Canada to attend conferences.

Courtesy visas may be issued in any type of passport to persons who require visas or who are normally visa–exempt. The visa will alert POE officers to the fact that the post abroad considers the individual deserving of expeditious and courteous treatment.

Persons on Courtesy visas are subject to normal documentation by the POE; you should therefore ensure that a person who is normally subject to referral for a secondary examination understands that a courtesy visa does not exempt him or her from such procedures.

There is a processing fee for Courtesy visas.

5.9 Collective certificates

Collective certificates are issued in lieu of individual visas where a large number of people are travelling together. The purpose of a Collective certificate is to streamline visa issuance. See APPENDIX A for a sample of a Collective Certificate (IMM 1393). Collective certificates will not be issued to groups of fewer than five members.

There are two instances where you may issue a Collective Certificate.

- to groups flying in transit to destinations other than Canada where the aircraft is scheduled to refuel in Canada and the passengers require visitor visas (see section 5.9.1, Collective Certificates used as Transit Visas), and
- to groups visiting in the U.S.A who wish to make a brief tour of Canada and whose members require visitor visas (see section 5.9.2).

There is normally a processing fee for each person listed on the collective certificate. The two exceptions are described in sections 5.9.1 and 5.9.2 below.

5.9.1 Transit visas

You may issue a collective certificate which serves as a transit visa to passengers flying to locations other than Canada, but whose flight transits through Canada and stops for refueling. You may not include on a collective certificate any person disembarking in Canada, either to visit Canada or to continue his or her transit on a flight other than the one on which the person arrived.

There is no processing fee under R6(1)(g) of the cost recovery regulations because the stopover is less than 48 hours.

Whenever you use a collective certificate to document groups transiting through Canada, you should deliver the completed form to representatives of the airline transporting the passengers, and instruct them that the form must be in the possession of the purser on the transiting aircraft and be available for examination by Canadian officials on arrival in Canada.

5.9.2 Groups travelling from the U.S.A

You may issue collective certificates to organized tour groups visiting in the U.S.A. who wish to make a brief tour in Canada and whose members require visitor visas. While collective certificates are normally issued to tour groups travelling by bus or automobile, they may also be issued to tour groups travelling from the U.S.A. by aircraft.

There is normally a fee for each person listed on the collective certificate. However, if the collective certificate is issued to an organized tour group that is operated by a transportation company, originates in and will return to the U.S.A, and remains in Canada for less than 48 hours, there is no processing fee under R6(1)(h) of the cost recovery regulations.

5.9.3 When to use collective certificates

Exercise your discretion in issuing collective certificates. You may issue collective certificates to groups whose organizers (such as the tour leader or airline operator) are well known to the visa office, are reputable, and have been properly screened. If you have concerns about enforcement, you should set aside the collective certificate and issue individual visas to members of the group who meet immigration requirements. Group visas are not issued to groups of less than five members.

5.9.4 Members must travel together

Persons in a group wishing to travel on a collective certificate must arrive at the POE together, so that the POE officer can establish that they are included on the collective certificate. They must remain together until all immigration and customs formalities are completed. To ensure that members of the group understand this requirement, you should insert in each passport a form letter (see APPENDIX B). Group members are expected to leave Canada together.

5.9.5 Applying for a collective certificate

To apply for a collective certificate, the group leader must provide you with the following documentation and information:

a) the name of the group and the group's representative;

b) a list of the group members' names, dates of birth and passport numbers;

c) the valid passport or travel document of each member of the group;

d) the full itinerary for the group, including the name of the transportation company, flight numbers (if applicable) and estimated times of arrival and departure;

e) a declaration by the group's representative stating that no member of the group has ever:

- been treated for any serious physical or mental disorders or any communicable or chronic diseases;
- been convicted of any crime in any country, or
- been refused a visa to travel to Canada or been refused admission to or ordered to leave Canada, and

f) sufficient funds to pay the fee.

You should examine the passports, check the Enforcement Information Index and, where applicable, request security clearance in accordance with chapter IC 2.

5.9.6 Issuing the collective certificate

Names of the group members will be listed alphabetically on the IMM 1393, *Collective Certificate*, with the date of birth and passport number appearing beside each name. You should block off the last name

with either the post stamp or consular seal impression. If more than one certificate is necessary, place a post stamp or consular seal impression across the last name on each sheet.

You should then place a visitor visa counterfoil (IMM 1346) where indicated on the certificate. Complete the visa in the normal manner, being sure to insert the visitor code and total number of persons named on the collective certificate in the upper left corner of the visa. Attach the second leaf of the collective certificate to the visa copy sheet to form the visa register.

5.9.7 Informing the POE that collective certificate issued

You should provide the proposed POE with the following information at least 48 hours in advance:

a) the name of the group;

b) the name of the group leader;

c) the name of the transportation company;

d) the number of persons in the group, and

e) the date and anticipated time of arrival.

A visitor who has been allowed to come into Canada on the basis of a collective certificate has the same status as a person who was issued an individual visa. Such a person is expected to leave Canada within the authorized period of stay, but extension of that period may be granted in the normal manner. The applicant will be subject to the normal cost–recovery fee for a visitor visa extension (see chapter IR 5, *Immigration Cost Recovery Processing*).

5.10 Affirmation for visa

An Affirmation for Visa form (IMM 1281) is issued only to the holders of diplomatic or special passports of citizens from countries whose regimes are not recognized by Canada. Other citizens of these countries may be issued visitor visas in the normal manner. See OP 15 for details.

6. REFUSALS

6.1 How to refuse

Refusals are normally verbal. Issue a refusal letter if:

a) you have not interviewed the applicant, or

b) the applicant insists on a written refusal letter following interview.

See APPENDIX D for a sample refusal letter.

You do not have to provide the specific reason for your refusal to the applicant, but your notes must clearly explain the reason.

6.2 Clear refusal notes

In all refusals ensure that your notes are complete and accurate: outline the circumstances of the application, the process you followed in exercising your decision, the presence and identity of an interpreter and/or counsel (if applicable) and the reason for the refusal.

In reaching your decision you must take into account any representations made by persons (or their counsel) and make note of the nature and content of these representations.

Refused applicants may, and do, seek redress at the Federal Court of Canada – Appeal Division, and to the Canadian Human Rights Commission. You may have to provide your notes. If these are not typed into CAIPS, they must be legible, preferably written in black ink for ease of photocopying.

6.3 Grounds for refusal

a) **A19(2)(d) and A2(1)** – An applicant who does not fall within the definition of a visitor may be refused.

b) **A19(2)(d) and A9(1.2)** – An applicant who cannot fulfil the burden of demonstrating that he is not an immigrant may be refused.

c) **A19(2)(d) and A9(3)** – An applicant who provides false information which is materially relevant to the application can be denied. The officer must take caution to determine whether or not the false information is relevant. If it is not relevant and there is no other grounds for refusal, the application must be allowed.

d) **A19** – any inadmissibility under A19 is grounds for refusal.

Do **NOT** refuse on the following grounds:

a) **A19(2)(d) and A8(2)** – NO – A8(2) applies only to Port of Entry situations, not visa applications abroad.

b) **A19(2)(d) and A8(1)** – NO – Although it is conceivable that these sections could be used together, it is preferable not to do so. In order for these sections to be utilized there should be reference to some other section of the *Immigration Act* specifying a ground of inadmissibility.

6.4 POE information report to visa office

When they refuse entry to the holder of a visitor visa, POE officers will provide full details to the issuing post abroad in anticipation of future representations being made to the post.

The POE report will begin with the phrase *As requested, PE 6*, and include the following details:

a) name and nationality of the subject of the A20(1) report;

b) the person's date and place of birth;

c) the visa document number, date and office of issue;

d) the date and POE where the person sought to enter Canada;

e) the reason for refusal, *using the code letter* for the reason for refusal:

A = seeking permanent residence

B = claims Convention refugee status

C = intends to seek or take employment

D = intends to follow a course of study

E = has insufficient funds to maintain himself or herself and dependants

F = medical inadmissibility

G = criminal inadmissibility

H = expired visitor's visa, and

I = other

f) the name and file number of the CIC responsible for follow–up enforcement action, if the CIC differs from the POE, and

g) the post file number (if the post included the number on the visa).

If the reason for refusal was code I (other), the CIC will make a further report to the issuing post abroad by mail, giving further details concerning the reason for refusal.

In the case of a Statesman or Special Category visitor, the POE will mail the report in a double envelope, the outer one showing only the address of the mission. The inner envelope should be marked with the security designation – PROTECTED B. This category would encompass sensitive information including routine RCMP criminal investigations. PROTECTED C should be used if the material covers "extremely sensitive" intelligence material on a high profile or controversial individual.

This reporting system gives posts abroad immediate feedback on their decisions for issuing visitor visas, and assists in monitoring the effectiveness of the visitor visa program. These reports should be added to the original file and cross–indexed to the files of family members.

APPENDIX A

SAMPLE OF IMM 1393 (07–92) B – COLLECTIVE CERTIFICATE

(see section 5.9)

Employment and Immigration Canada / Emploi et Immigration Canada

PROTECTED WHEN COMPLETED - A
PROTÉGÉ UNE FOIS REMPLI

COLLECTIVE CERTIFICATE
(SEE INSTRUCTIONS ON REVERSE)

CERTIFICAT DE GROUPE
(VOIR LES INSTRUCTIONS AU VERSO)

NAME AND ADDRESS OF TOUR AGENCY - *NOM ET ADRESSE DE L'AGENCE DE VOYAGE*	NAME OF TOUR AGENT - *NOM DE L'AGENT DE VOYAGE*	TELEPHONE / *TÉLÉPHONE*

NAME AND ADDRESS OF TOUR LEADER - *NOM ET ADRESSE DU CHEF DU GROUPE*	SEX / *SEXE* ☐ M / *H* ☐ F	DATE OF BIRTH / *DATE DE NAISSANCE*	CITIZEN OF / *CITOYEN DE*	PASSPORT NO. / *Nº DU PASSEPORT*

INTENDED MODE OF TRAVEL / *MOYEN DE TRANSPORT PRÉVU*	INTENDED DATE AND PORT OF ARRIVAL IN CANADA / *DATE ET POINT D'ENTRÉE PRÉVUS AU CANADA*	INTENDED DATE AND PORT OF DEPARTURE FROM CANADA / *DATE ET POINT DE DÉPART PRÉVUS DU CANADA*
☐ BUS / AUTO-BUS ☐ AUTOMOBILE ☐ VAN / FOURGONNETTE ☐ AIRCRAFT / AVION	D - J M Y - A PORT - *POINT*	D - J M Y - A PORT - *POINT*

LIST GROUP MEMBERS ALPHABETICALLY (NO FEWER THAN FIVE) - *ENUMÉREZ LES MEMBRES DU GROUPE DANS L'ORDRE ALPHABÉTIQUE (GROUPE COMPOSÉ D'AU MOINS CINQ PERSONNES)*

LIST NO. / *Nº*	SURNAME / *NOM DE FAMILLE*	GIVEN NAMES / *PRÉNOMS*	SEX - *SEXE* M - *H*	SEX - *SEXE* F	DATE OF BIRTH / *DATE DE NAISSANCE*	CITIZEN OF / *CITOYEN DE*	PASSPORT NO. / *Nº DU PASSEPORT*
1.							
2.							
3.							
4.							
5.							
6.							
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17.							
18.							
19.							
20							

OFFICIAL USE ONLY (DO NOT COMPLETE) - *RÉSERVÉ (NE PAS REMPLIR)*

THIS DOCUMENT, WHEN VISAED, IS VALID FOR A SINGLE JOURNEY TO CANADA.
LE PRÉSENT DOCUMENT, DÛMENT VISÉ, EST VALIDE POUR UN SEUL VOYAGE AU CANADA.

CANADIAN OFFICIAL TO APPLY VISA
(IMM 1346) HERE

Note: This form may be used only to process groups coming from the U.S.A. and groups flying in transit when the aircraft is scheduled to refuel in Canada.

L'AGENT CANADIEN DOIT APPOSER LE VISA (IMM 1346) DANS CETTE CASE

Nota. Ce formulaire ne doit être rempli que pour des groupes venant des États-Unis et des groupes dont l'avion transite par le Canada pour fin de ravitaillement en carburant.

TO BE COMPLETED BY EXAMINING OFFICER AT CANADIAN PORT OF ENTRY.
DOIT ÊTRE REMPLI PAR L'EXAMINATEUR AU POINT D'ENTRÉE AU CANADA.

THE FOLLOWING DID NOT APPEAR FOR EXAMINATION (CIRCLE CORRESPONDING LIST NO.)
LES PERSONNES SUIVANTES NE SE SONT PAS PRÉSENTÉES LORS DE LA VÉRIFICATION (ENTOUREZ D'UN CERCLE LES NUMÉROS CORRESPONDANTS DE LA LISTE)

☐ N/A / S/O OR - OU | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |

BOND ON IMM 514 - *DÉPÔT DE GAGE (IMM 514)*

☐ N/A / S/O OR - OU SERIAL NO. - *Nº DE SÉRIE*

TO BE COMPLETED AT CANADIAN PORT OF DEPARTURE.
DOIT ÊTRE REMPLI AU POINT DE DÉPART DU CANADA.

THIS FORM WAS SURRENDERED ON / *LE PRÉSENT FORMULAIRE A ÉTÉ REMIS LE* ▶ D - J M Y - A

THE FOLLOWING PERSONS DID NOT LEAVE CANADA WITH THE GROUP (CIRCLE CORRESPONDING LIST NO.)
LES PERSONNES SUIVANTES N'ONT PAS QUITTÉ LE CANADA AVEC LE GROUPE (ENTOUREZ D'UN CERCLE LES NUMÉROS CORRESPONDANTS DE LA LISTE)

☐ N/A / S/O OR - OU | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |

COST RECOVERY CODE / *CODE DE RECOUVREMENT DES FRAIS*	AMOUNT / *MONTANT*	GST / *TPS*	RECEIPT NO / *Nº DE REÇU*	AUTHORIZED OFFICER'S SIGNATURE / *SIGNATURE DE L'AGENT AUTORISÉ*	DATE D - J M Y - A

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
CE FORMULAIRE A ÉTÉ ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1393 (07-92) B

Canada

APPENDIX B
SAMPLE LETTER OF ADVICE TO MEMBERS OF TOUR GROUPS VISITING CANADA

(see section 5.9.4)

A visa officer will insert a letter in each passport or members of groups visiting Canada on a collective certificate (IMM 1393). The precise wording may vary with local offices, but it will follow the intent of this sample:

Dear client:

As a member of an organized tour group you have been included in a group visa which will facilitate your entry into Canada for a specific period.

Since you would not be admissible to Canada without a visa, and the group visa that has been issued will be held by your tour leader, it is essential that you remain with your group on arrival until all immigration and customs formalities have been completed. Even though an immigration stamp will be placed in your passport, we suggest that you retain this letter with your passport during your trip.

We hope that your visit to Canada will be a pleasant one.

APPENDIX C
PASSPORT STUFFER
(see section 5.3)

IMPORTANT

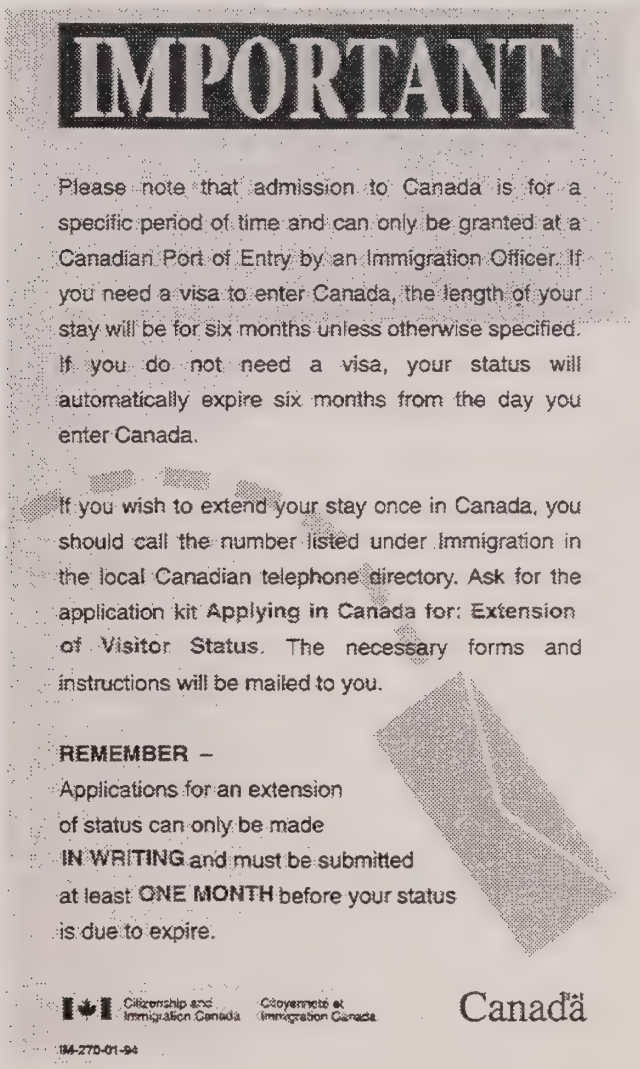
Please note that admission to Canada is for a specific period of time and can only be granted at a Canadian Port of Entry by an Immigration officer. If you need a visa to enter Canada, the length of your stay will be for six months unless otherwise specified. If you do not need a visa, your status will automatically expire six months from the day you enter Canada.

If you wish to extend your stay once in Canada, you should call the number listed under Immigration in the local Canadian telephone directory. Ask for the application kit **Applying in Canada for: Extension of Visitor Status**. The necessary forms and instructions will be mailed to you.

REMEMBER

Applications for an extension of status can only be made **IN WRITING** and must be submitted at least **ONE MONTH** before your status is due to expire.

IM–270–01–94



APPENDIX D

PRO–FORMA VISITOR VISA REFUSAL LETTER

(see section 6.1)

Dear Mr. _____:

This refers to your application for a Canadian Visitor Visa.

According to Canada's *Immigration Act and Regulations*, a visitor must establish that his/her intentions as a visitor are clearly bonafide and temporary in nature, i.e. that the applicant is a visitor as defined by Canada's *Immigration Act* and that he/she is not an immigrant (see attached text of regulation). It is your responsibility as an applicant to satisfy the visa officer that you will leave Canada and that you will not engage in unauthorized employment, study, nor attempt to remain permanently in Canada.

I have carefully reviewed the information contained in your application and conclude that you do not meet the conditions above. You therefore come within the inadmissible class of persons described in paragraph 19(2)(d) of the *Act* and your application has been refused. This decision was reached after considering the following factors:

Should you wish to re–apply for a visitor visa at some time in the future, you may do so by submitting a new application. However, little purpose will be served by re–applying in the absence of significant changes in your personal circumstances.

I realize that this decision will be a disappointment to you and regret that it could not be favourable.

Yours sincerely,

Attachment to APPENDIX D

VISITORS

Subsection 2(1) of Canada's Immigration Act defines a "visitor" as:

> ... a person who is lawfully in Canada, or seeks to come into Canada, for a temporary purpose, other than a person who is
>
> (a) a Canadian citizen;
>
> (b) a permanent resident;
>
> (c) a person in possession of a permit, or
>
> (d) an immigrant authorized to come into Canada pursuant to paragraph 14(2)(b), 23(1)(b) or 32(3)(b).

Subsection 9(1.2) reads:

> A person who makes an application for a visitor's visa shall satisfy a visa officer that the person is not an immigrant.

Subsection 9(3) reads:

> Every person shall answer truthfully all questions put to that person by a visa officer and shall produce such documentation as may be required by the visa officer for the purpose of establishing that his admission would not be contrary to this *Act* or the *Regulations*.

Paragraph 19(2)(d) reads:

> No person shall be granted admission who is a member of any of the following classes:
>
> ... persons who cannot or do not fulfil or comply with any of the conditions or requirements of this *Act* or the *Regulations* or any orders or directions lawfully made or given under this *Act* or the *Regulations*.

IMMIGRATION

Canada

Chapter OP 10
Processing Student Authorizations



Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Processing Student Authorizations

Abbreviations and Short Forms	
A	*Immigration Act*
ACISI	Advisory Committee on International Students & Immigration
CAQ	Certificat d'Acceptation du Québec
CAIPS	Computer Assisted Information Processing System
CIC	Citizenship and Immigration Canada
CICs	Canada Immigration Centres
CIDA	Canadian International Development Agency
CPCs	Case Processing Centres
CPCV	Case Processing Centre, Vegreville
CSQ	Certificat de Sélection du Québec
DFAIT	Department of Foreign Affairs & International Trade
FOSS	Field Operations Support System
IMM 1249	Student Application Form in Canada
IMM 1294	Student Application Form Abroad
IMM 1208	Student Authorization Form generated by non–CAIPS visa offices
IMM 1442	Student Authorization Form generated by FOSS.
MRCIQ	Ministère des Relations des Citoyens et de l'Immigration du Québec
POE	Port of Entry
R	*Immigration Regulations*
SIQ	Service de l'Immigration du Québec
VEC	Validation Exempt Code

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1. LEGISLATIVE AUTHORITY AND POLICY DIRECTION

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1.1 The Act

1.1.1 Immigration objectives

A3 It is hereby declared that Canadian immigration policy and the rules and regulations made under this Act shall be designed and administered in such a manner as to promote the domestic and international interests of Canada, recognizing the need

(e) to facilitate the entry of visitors into Canada for the purpose of fostering trade and commerce, tourism, cultural and scientific activities and international understanding.

1.1.2 Applications by students

A10 Except in such cases as are prescribed, every person, other than a Canadian citizen or a permanent resident, who seeks to come into Canada for the purpose of

(a) attending any university or college authorized by statute or charter to confer degrees,

(b) taking any academic, professional or vocational training course at any university, college or other institution not described in paragraph (a),

shall make an application to a visa officer for and obtain authorization to come into Canada for that purpose before the person appears at a port of entry.

1.1.3 No application in certain circumstances

A17.1 Except in such cases as are prescribed, no person in Canada may make an application to an immigration officer to obtain authorization

(a) to attend any university or college or take any academic, professional or vocational training course.

1.1.4 Authority to make regulations

A114(1) The Governor in Council may make regulations

(h) prescribing the maximum duration of student and employment authorizations.

1.2 The Regulations

1.2.1 Definition

R2(1) In these Regulations, "student authorization" means a document issued by an immigration officer whereby the person to whom it is issued is authorized

(a) to attend a university or college authorized by statute or charter to confer degrees, or

(b) to take an academic, professional or vocational training course at a university, college or other institution not described in paragraph (a).

1.2.2 Requirement to be in possession of a student authorization

R13(4) Every visitor who is required to obtain a visa, student authorization or employment authorization before he appears at a port of entry shall be in possession of a valid visa, student authorization or employment authorization, as the case may be, when he appears at a port of entry.

R14.1 Subject to sections 14.2 and 14.3, no person, other than a Canadian citizen or a permanent resident, shall attend any university or college or take any academic, professional or vocational training course in Canada unless that person possesses a valid subsisting student authorization.

1.2.3 Where authorization not required

R14.2 Section 14.1 does not apply to a person who seeks to come into Canada for the purpose of attending a university or college, or taking an academic, professional or vocational training course or a person in Canada who is attending or seeks to attend a university or college or is taking or seeks to take an academic, professional or vocational training course if

(a) the person is the dependant of any diplomatic or consular officer, representative or official, properly accredited, of a country other than Canada or of the United Nations or any of its agencies or of any

intergovernmental organization of which Canada is a member who is coming into or is in Canada to carry out official duties or any member of the staff of that officer, representative or official, or

(b) the sole course taken or to be taken is a French or English language training course that is three months or less in duration.

R14.3(1) There shall be exempt from the requirement to obtain a student authorization, for any of the purposes referred to in section 14.1, any person

(a) who was in Canada on January 1, 1989 or had, prior to that date, been directed to return to the United States pursuant to subsection 23(5) of the Act to await the availability of an adjudicator to preside at an inquiry to be held on or after that date; and

(b) whose intention to make a claim to be a Convention refugee was signified by the person before January 1, 1989, to

(i) an immigration officer, who recorded that intention before that date, or a person acting on an immigration officer's behalf, who an immigration officer is satisfied recorded that intention before that date, or

(ii) an adjudicator in the course of an inquiry respecting the person's status in Canada.

R14.3(2) No exemption under subsection (1) applies to a person who

(a) has been determined to be a Convention refugee under the Act as it read before January 1, 1989;

(b) is the subject of a removal order or a departure order and has not been removed from, or has not otherwise left, Canada;

(c) has failed to appear for

(i) completion, pursuant to paragraph 12(3)(a) of the Act, of an examination,

(ii) an inquiry respecting that person's status in Canada, or for the continuation of such an inquiry, where the person was given an appointment therefor, or

(iii) an examination under oath with respect to the person's claim to be a Convention refugee, or for the continuation of such an examination, where the person was given an appointment therefor; or

(d) is described in paragraph 19(1)(c), (e), (g) or (j) or 27(2)(c) of the Act.

R14.3(3) There shall be exempt from the requirement to obtain a student authorization, for any of the purposes referred to in section 14.1, any person who is a dependant of a person exempt under subsection (1).

1.2.4 Documents to accompany application for student authorization

R15(1) Every application for a student authorization shall be accompanied by

(a) a letter from a university, college or other institution referred to in paragraph 10(a) or (b) of the Act accepting the applicant to attend or to take any specified course at the university, college or other institution;

(b) sufficient documentation to enable an immigration officer to satisfy himself that the applicant has sufficient financial resources available to him, without engaging in employment in Canada,

(i) to pay his tuition fees,

(ii) to maintain himself and any dependants who will come into Canada during the period for which he seeks a student authorization, and

(iii) to pay the transportation costs to and from Canada for himself and any dependants referred to in subparagraph (ii); and

(c) the consent in writing of the government of the province in which the applicant wishes to study where such consent is required by that government pursuant to an agreement entered into by the Minister with that government pursuant to section 108 of the Act.

1.2.5 Exemptions from certain documentation

R15(1.01) Paragraphs (1) (a) and (b) do not apply in respect of an application to attend a primary or secondary school that is submitted by a dependant of a holder of a student authorization or employment authorization.

R15(1.1) Subparagraph 15(1)(b)(ii) does not apply in respect of an application submitted by

(a) a person whose claim to Convention refugee status has been referred to the Refugee Division pursuant to subsection 46.02(2) or 46.03(5) of the Act, as amended by S.C. 1988, c.35, section 14; or

(b) a dependant of a person referred to in paragraph (a).

1.2.6 Where authorization not required before arriving at Port of Entry

R15(2) A person who seeks to come into Canada for a purpose referred to in paragraph 10(a) or (b) of the Act is not required to obtain a student authorization before that persons appears at a port of entry if that person is a dependant of

(a) [Revoked SOR/89–38]

(b) a member of the armed forces of a country that is a designated state for the purposes of the Visiting Forces Act who is coming to or is in Canada in order to carry out his official duties, including a person who has been designated as a civilian component of that visiting force;

(c) a clergyman or member of a religious order coming to or in Canada for the temporary carrying out of his religious duties;

(d) an employee of a foreign news company coming to or in Canada for the purpose of reporting on Canadian events;

(e) a person coming to or in Canada to engage in athletic or other sport activities or events as a player, manager, coach, trainer or administrative employee for a Canadian–based team, group or organization or a person engaged as a referee, umpire or other similar official with respect to any athletic or other sport activity or event in Canada;

(f) a person in possession of a valid and subsisting student authorization;

(g) a person in possession of a valid and subsisting employment authorization; or

(h) a representative of a foreign government sent by that government to take up duties with a federal or provincial agency pursuant to an exchange agreement with Canada.

R15(3) A person who seeks to come into Canada for a purpose referred to in paragraph 10(a) or (b) of the Act is not required to obtain a student authorization before that persons appears at a port of entry if that person is

(a) a national of the United States;

(b) a person who has been lawfully admitted to the United States for permanent residence;

(c) a resident of Greenland;

(d) a resident of St.Pierre and Miquelon; or

(e) a person whose application for a student authorization has been approved in writing by a visa officer but to whom the authorization has not been issued.

1.2.7 Where application for authorization may be made in Canada

R16(1) A person in Canada may make an application for the purpose of obtaining a student authorization

(a) if that person is

(i) a person referred to in subsection 15(2);

(ii) a person in possession of a valid and subsisting student authorization;

(iii) a person in possession of a permit issued by the Minister under section 37 of the Act or a dependant of that person,

(iv) a person whose claim to Convention refugee status has been referred to the Refugee Division but the claim has not been finally determined,

(v) a dependant of a person referred to in subparagraph (iv), or

(vi) a person referred to in paragraph 15(3)(e);

(b) where the taking of the course for the purpose of which he makes an application for a student authorization would only be incidental and secondary to the main purpose of his presence in Canada; or

(c) if that person has been authorized to remain in Canada as a visitor pursuant to subsection 17(2.1) of the Act and was in possession of a valid and subsisting student authorization at the time the person ceased to be a visitor.

1.2.8 Course criteria

R17(1) A student authorization may not be obtained by any person for the purpose of taking any academic, professional or vocational training course unless that course

(a) is of at least six months duration and at the rate of at least twenty–four hours f instruction per week;

(b) is given at any institution described in paragraph 10(a) of the Act or any other publicly–funded institution;

(c) is recommended by a minister of the Government of Canada, other than the Minister of Employment and Immigration, or by a minister of the government of any province or by any agency of the Government of Canada or the government of any province;

(d) is incidental and secondary to the main purpose of that person's presence in Canada; or

(e) involves upgrading of skills or language training and is given at an institution that operates under a provincial or federal licence.

R17(2) No visitor may be granted entry for the purpose of taking any academic, professional or vocational training course at any university, college or other institution listed in Schedule III.

1.2.9 Prescribed Institutions

Schedule III Three institutions are listed for which no visitor are to be granted entry:

- General Welding School, 61 Jarvis Street, Toronto
- Radvis University, Charlottetown, PEI
- The Way College of Biblical Research, London, ON

1.2.10 Terms and Conditions

R23(3) Where an immigration officer, senior immigration officer or adjudicator may impose conditions under the Act in respect of a visitor, the only terms and conditions that may be imposed are the following:

(a) a prohibition against engaging in employment in Canada;

(b) a prohibition against attending any university, college or other institution and against taking any academic, professional or vocational training course at any university, college or other institution;

(c) attendance at a university, college or other institution specified by the immigration officer, senior immigration officer or adjudicator;

(h) the period in which the visitor may remain in Canada;

(i) the area within which the visitor may travel in Canada;

(k) The times and places at which the visitor shall report for medical examination, surveillance or treatment or for any other purpose;

(m) a prohibition against attending any university, college or other institution listed in Schedule III and against taking any academic, professional or vocational training course at any university, college or other institution listed in that Schedule.

1.3 Fees Regulations

1.3.1 Processing fee payable by

R7(1) The fee prescribed in Column III of the schedule (namely $125) is payable, at the time an application for a student authorization is made.

1.3.2 Exemptions from processing fee

R7(2) The following persons need not pay the fee:

(a) a person described in paragraph 5(2)(a), (b), (c) or (m), namely

5(2)(a) a person in Canada who has made a claim to be a Convention refugee that has not yet been decided by the Refugee Division and any dependant of the person;

5(2)(b) a person whom the Refugee Division has determined to be a Convention refugee and any dependant of the person;

5(2)(c) a person whom a visa officer has determined to be a Convention refugee seeking resettlement and any dependant of the person;

5(2)(m) an officer of the United States Immigration and Naturalization Service or of the United States Customs carrying out pre–inspection duties, an American member of the International Joint Commission, a United States grain inspector or any other United States Government official in possession of an official United States Government passport and assigned to a temporary posting in Canada, and their dependants.

(b) a member of a class of persons designated by the Governor in Council pursuant to subsection A6(3) and paragraph A114(1)(d), and their dependants;

(c) a person described in paragraph 3(2)(a) and their dependants, namely

3(2)(a) a properly accredited diplomat, consular officer, representative or official of a country, other than Canada, of the United Nations or any of its agencies, or of any intergovernmental organization in which Canada participates, or a member of the suite of any such person and their dependants;

(d) a person described in paragraph 3(2)(b) and their dependants, namely

3(2)(b) a member of the armed forces of a country that is a designated state for the purposes of the *Visiting Forces Act*, including a person who has been designated as a civilian component of that visiting force pursuant to paragraph 4(c) of that Act, and their dependants;

(e) a dependant, studying at the secondary school level or lower, of a person described in paragraph 3(2)(c), namely

3(2)(c) a clergyman, a member of a religious order or a lay person who is to assist a congregation or a group in the achievement of its spiritual goals where the duties to be performed by the person are to consist mainly of preaching doctrine, presiding at liturgical functions or spiritual counselling, and their dependants;

(f) a student who is seeking renewal of the student authorization and who has become temporarily destitute through circumstances totally beyond their control or the control of any person on whom the student is dependent for financial resources; and

(g) a person who is in or coming into Canada, under an agreement between Canada and a foreign country or an arrangement entered into with a foreign country by the Government of Canada that provides for reciprocity of student exchange programs.

1.4 Policy direction

1.4.1 An issue of competitiveness

Foreign students are considered a growth industry for Canada, as they are for the rest of the industrialized world. CIC is committed to putting in place guidelines and procedures which will streamline program management and simplify processing for foreign students choosing Canada for their educational pursuits.

Canada is facing strong competition from countries such as the United States, Australia, the U.K. and others, who have adopted aggressive recruitment techniques in their search for a larger share of foreign students. Many other countries have been successful in securing a larger share of the foreign academic talent that is helping diversify their economies and boost their educational systems.

With government cutbacks and declining enrollment, foreign students represent a vital link in helping maintain a strong educational infrastructure for Canadians. Much progress has been made, but we are still lagging behind in our quest to attract foreign students in greater numbers.

1.4.2 Some statistics

In 1990–91, there were 1.5 million foreign students at the post secondary level around the world. Of these, Canada received approximately 3%. In 1995, the 77,600 foreign students studying in Canada generated $2.3 billion in economic activity and 21,000 jobs. That same year, posts abroad issued close to 30,000 student authorizations, roughly half to post secondary students.

1.4.3 Administration

At NHQ, the Economic Policy & Programs Division, Selection Branch, is responsible for the Foreign Student program. Branch responsibilities encompass a wide spectrum from policy development, to program management, procedural guidelines, monitoring functions, stakeholder consultations and customer service.

1.4.4 Stakeholders

In an effort to make the consultation process more systematic and improve our ability to carefully monitor our policies and programs, the Branch established a formal Advisory Committee on International Students and Immigration. The Committee includes core representation from government and non–government organizations, and access to a wide range of interest groups which are called upon to participate in discussions on any number of issues. Committee membership is listed at the end of this Chapter.

1.4.5 Committee on International Students and Immigration: Mandate

The Committee is chaired by the Director of Economic Policy and Programs, and meets twice a year to exchange information, review current issues and resolve difficulties. The Committee's mandate has been formulated as follows:

- To monitor and discuss issues relating to international students and their dependents, including those enrolled in commercial, technical education and training programs;
- to make suggestions to CIC on issues affecting international students and their dependents;
- to maintain contact with committee members between meetings to resolve urgent issues;
- to monitor and discuss issues concerning other foreign nationals visiting Canada for research, education or practical training purposes.

1.4.6 Important progress has been made

This consultation process has helped spur important changes to immigration requirements which will streamline our programs and simplify our procedures. Among the most important...

- we have eliminated the need for letters of acceptance from school for dependents of holders of student and employment authorizations;
- we have eliminated the requirement for employment authorizations for university and community college students to work on campus;
- we have simplified financial sufficiency requirements for students and their dependants;
- we have reinforced our commitment to issuing long–term student authorizations;
- we have put forward a standard content for letters of acceptance;
- we have reached an understanding on the use of conditional letters of acceptance.

1.4.7 Immigration one of several important partners in international education

Immigration is only one of several competing factors affecting the manner in which foreign students are attracted to Canada. First and foremost is the quality and affordability of education, coupled with our economic environment and quality of life.

Although we have made good progress, there is still a strong perception that immigration is an impediment, that there are too many inconsistencies in our approaches, and that requirements are too demanding and unnecessarily complicated.

Part of the competitiveness problem lies in the fact that Canada lacks a cohesive national policy on international students. There are many separate stakeholders with many different interests. It is recognized that all stakeholders have a role to play in improving our competitive position, and that efforts need to be made right across the board, from forging a cohesive policy approach, to improving marketing strategies, to speeding up processing of applications.

CIC is a significant partner in this respect, and there are important things that we can and must continue to do. CIC's partnership with the Advisory Committee will continue to be an important aspect of this policy and program development function.

1.4.8 Setting the tone for ongoing program refinements and simplified processing

Last but not least, with the publication of this chapter, CIC has provided clear policy direction and processing guidelines which should help attain a higher level of consistency in the manner in which we are managing our foreign student programs. This chapter will be updated periodically to reflect changes and continuing improvements in this respect.

Hopefully, these improvements will assist officers in their day–to–day management of cases, and set the tone for further refinements of our procedures which will ultimately help boost Canada's competitive position.

1.4.9 Membership Advisory Committee on International Students and Immigration

GOVERNMENT	Canadian International Development Agency
	Citizenship & Immigration Canada (Chair)
	Department of Foreign Affairs & International Trade
	Industry Canada
	Council of Ministers of Education, Canada
NON–GOVERNMENT	Association of Canadian Community Colleges
	Association of Universities & Colleges of Canada
	Canadian Association of University Teachers
	Canadian Association of Graduate Studies
	Canadian Bureau of International Education
	National Association of Career Colleges
	One national student group: Canadian Federation of Students
INVITED PARTICIPANTS	Asia–Pacific Foundation
	Canadian Alliance of Student Associations
	Canadian School Boards Association
	World University Services of Canada
	Association of Canadian Bible Colleges
	British Columbia Centre for International Education
	Canadian Association of Independent Schools
	Canadian Information Centre for International Credentials
	Canadian Education Association
	Conférence des recteurs et des principaux des universités du Québec
	Fédération des conseillères et des conseillers scolaires francophones
	Federation of Independent Schools in Canada
	Organisation universitaire interaméricaine
	Inter–American Organization for Higher Education

2. SPECIAL CONSIDERATIONS AND REQUIREMENTS

2.1 Quebec program

2.1.1 Canada–Québec Immigration Agreement

Under the terms of Article 22 of the Canada–Québec Immigration Agreement, Québec's consent is required in order to admit any foreign student to the Province, except a student chosen under a Canadian government assistance program for developing countries, such as those administered by CIDA.

2.1.2 Formal consultations

Ongoing consultations with the Province of Québec are formalized under the terms of Articles 9 and 10 of the Canada–Québec Immigration which require the establishment of the Implementation Committee, co–chaired by a representative designated by both provincial and federal Ministers. The Committee, which is required to meet formally at least twice a year, also includes formal representation from the Department of Foreign Affairs and International Trade.

2.1.3 Québec's selection mechanism

The Province utilizes a Certificat d'Acceptation du Québec, as its selection mechanism for foreign students. With exemptions listed below, all applicants for student authorizations destined to a Québec educational institution at the primary, secondary, college or university level must be in possession of a "Certificat d'acceptation du Québec" (CAQ) before being eligible for a student authorization.

2.1.4 How students obtain a CAQ

If the country where the applicant is living is served by the Quebec Immigration Service, the student must apply there for a CAQ. Otherwise, students should apply for their CAQ at the Regional office of the Ministère des Relations avec Citoyens et de l'Immigration du Québec (MRCIQ) that serves the educational institution which the student will be attending.

Québec authorities will forward copies of relevant CAQs to posts abroad or otherwise confirm issuance of CAQs by telex or other means.

Students who are allowed to apply at a Port of Entry and who do not possess a CAQ are usually given a three–month permit during which time they must apply for a CAQ from the Regional office of the Ministère des Relations avec Citoyens et de l'Immigration du Québec (MRCIQ) that serves the educational institution which the students will be attending. Once a CAQ is issued, these students must apply for an extension of their status through the CPC in Vegreville.

2.1.5 Students exempt from a CAQ

The following persons do not require a CAQ to study in Québec:

a) students chosen under a Canadian government funded program for developing countries;

b) dependants of diplomats accredited to Canada;

c) students enrolled in a part–time course of study of less than 20 hours per week;

d) students enrolled in intensive French or English courses of at least 20 hours per week, for a maximum period of twelve weeks;

e) students with a valid Certificat de Sélection du Québec who have been authorized by CIC to apply for landed immigrant status from within Canada or who have applied for an immigrant visa through a visa office.

2.1.6 Countries served by MRCIQ

The Service d'Immigration du Québec has offices in the following countries:

Vienna, Austria
Brussels, Belgium
Paris, France
Hong Kong
Damascus, Syria

2.1.7 Requests for information

The educational institution which the student will be attending should fully inform applicants about the procedures that apply in Quebec.

Alternatively, students requiring information should contact the MRCIQ Information Service in Montreal by phoning (514) 864–9191. This Office is not served by fax.

2.2 Privacy Legislation

2.2.1 Releasing information

The Student Application Form includes a notation that the information provided will be protected under the *Privacy Act*.

Privacy legislation requires that information concerning clients be released only to the client. The information can be released to the client's designated representative only upon the client's written approval.

Consequently, representations should be dealt with either in person or by mail. Information should be given out over the phone only if the caller can be positively identified as either the client or the client's authorized representative.

2.2.2 Dealing with third party representatives

Foreign student advisers should be viewed by officers as legitimate and trustworthy service partners, and their concerns should be responded to promptly, within applicable service standards.

In all cases, requirements of the *Privacy Act* apply. In cases where there is no written approval from the client on the disclosure of information to such third party representative, an adviser's questions should be noted, general requirements explained, and officers should make a commitment to respond to concerns directly to the applicant.

2.2.3 Programs funded by CIDA and DFAIT

Students coming forward under special programs funded by CIDA or DFAIT are required to sign an appropriate form consenting to the release of information to the sponsoring agency. The main purpose of this

requirement is to ensure that the sponsoring agency can be contacted when such students and/or their dependants apply for permanent residence or refugee status rather than returning home once their period of study is concluded.

The main objective of these programs is to ensure that such students acquire special knowledge or training in various fields which will be beneficial to a developing country's economy or social fabric once they return. It is, therefore, imperative that these agencies be contacted if the agreement to return home is breached.

Officers should refer to section 2.5 for detailed instructions in this respect.

2.3 Cost recovery

2.3.1 Legislation

For exact legislative reference, please refer to section 1.2 of this chapter, or section 7, *Immigration Act Fees Regulations*.

2.3.2 Fees payable

Manual users should refer to the Schedule of the *Immigration Act Fees Regulations* to verify that current fees are still applicable.

Currently, processing fees applicable to student authorizations are set at $125.00.

2.3.3 Method of Payment

Fees are payable at the time application is made, and should be included with the written application. Depending on local operating conditions, fees may be payable by cash in Canadian, American or local currency at the rate of exchange set by the Mission; Visa or MasterCard; certified cheque or international money order in Canadian funds only payable to the Receiver General for Canada.

2.3.4 Exemptions

The following persons are exempt from paying the processing fee:

a) persons who have been determined to be Convention refugees or members of a designated class prior to their arrival in Canada, and their dependants;

b) persons in Canada whose claim to be Convention refugees has not yet been decided by the Refugee Division, and their dependants;

c) Diplomats accredited to Canada, consular officers, representatives or officials of a foreign country, and their dependants;

d) dependants of persons who are employed by Canadian charitable institutions, or dependants of persons who are employed as a clergyman, a member of a religious order or a lay person to assist a congregation in its spiritual goals where the duties to be performed by that person consist mainly of preaching doctrine, spiritual counselling, when such dependants are studying at the secondary level or below;

e) students seeking renewal of their student authorization who have become temporarily destitute through circumstances totally beyond their control or the control of any person on whom they are dependent for financial resources;

f) members of a visiting force within the meaning of the *Visiting Forces Act*, and their dependants;

g) a person who is in Canada or who is coming into Canada under an agreement between Canada and a foreign country or an arrangement entered into with a foreign country by the Government of Canada that provides for reciprocal educational opportunities.

2.4 Prescribed institutions

2.4.1 Legislation

R17(2) requires that no visitor may be granted entry for the purpose of taking any academic, professional or vocational training course at any university, college or other institution listed in Schedule III. This Schedule currently lists three institutions for which no visitors are to be granted entry:

- General Welding School, 61 Jarvis Street, Toronto
- Radvis University, Charlottetown, P.E.I.
- The Way College of Biblical Research, London, Ontario

2.4.2 Making a recommendation to prescribe an institution

CIC has the authority to prescribe educational institutions which may be engaged in unethical recruitment or dubious business practices or which, in other ways, exploit potentially vulnerable foreign students. Students applying to these institutions should not be granted a student authorization.

When such institutions are drawn to their attention, Regional Directors of Immigration should investigate any allegations and advise CIC NHQ of any institution which they consider warrants inclusion in Schedule III, outlining their reasons for this recommendation.

2.4.3 Factors to be considered in prescribing an institution

Following are some of the factors which should be considered in making an assessment on the need to prescribe an institution:

a) whether the courses of study meet the requirements of R17(1)(a) specifying that these be of at least six months duration and at the rate of at least twenty–four hours of instruction per week;

b) whether the institution is registered in accordance with provincial legislation. Institutions not meeting this basic requirement should be recommended for prescription;

c) whether the institution operates in accordance with provincial legislation and concerns, especially as they relate to the refund of tuition fees, finances and advertising;

d) whether the institution has been involved in misrepresentation of any description in areas such as advertising or promotion overseas regarding the existence, level or quality of its courses; the transferability of credits earned; the availability and quality of any accommodation provided; the quality of facilities and instructional materials; the credentials of staff; its general operations in Canada. Institutions whose facilities are so poor that they are incapable of keeping students for the duration of the course of study should be considered suspect;

e) whether any evidence of mind–abuse practices, para–military training or harassment of present or former students exists. Allegations of this type should be investigated and reported on a priority basis.

In exceptional cases, depending on the relative "weight" or severity of the criterion, the existence of only one factor may provide adequate grounds for recommending that an educational institution be prescribed. Generally, however, it will be the existence of a number of factors which leads to such a decision.

2.4.4 Sources of information

Comments or reaction of visa officers and officials in countries where recruitment is undertaken, of CIC officials, immigration officers and CIC stakeholders should also be taken into consideration and form part of a recommendation to prescribe an institution. Other useful sources of information could include current and former students, current and former teaching staff and media or other investigative reports.

2.5 Government funded programs and exchange programs

2.5.1 Government Funded Programs

The Canadian International Development Agency (CIDA) and the Department of Foreign Affairs & International Trade (DFAIT) fund a number of special programs to enable deserving foreign students to undertake university–level studies or research fellowships in Canada, as well as short–term specialized training.

2.5.2 Objective

Students coming forward under these special programs receive funds to cover their transportation, tuition, medical and living expenses. The primary objective of these programs is that students will be able to apply the knowledge, education and training they have acquired in Canada to the benefit of their own countries.

An essential aspect of these programs, therefore, requires the students to return home shortly following their period of study in Canada or the termination of the award. Since the primary objective of the program will not have been met, sponsoring agencies have made a policy decision to cease funding in cases where such change of status occurs.

2.5.3 Assessment criteria

Because of special sponsorship and funding arrangements, it can be assumed that students sponsored by CIDA and DFAIT meet the requirements relating to acceptance, institution, course of study, language and transportation. Sponsorship also indicates that sufficient funds are available for single students. Students with spouse and dependants must have additional funds in accordance with the formula outlined in sections 3.3.4 and 3.3.5. Background inquiries and medical examinations are also in order.

2.5.4 CIDA Programs

The Canadian International Development Agency (CIDA) supports the efforts of the peoples of developing countries to achieve self–sustainable economic and social development by cooperating with them in development activities. An example of such programs is those administered by the World University Services of Canada.

One of the means by which CIDA achieves this objective is by funding a number of scholarship programs allowing students from developing countries to pursue university–level studies in Canada for degree–level programs, for research fellowships, or for short term specialized training.

Students receive bursaries to pursue advanced studies in a number of disciplines where knowledge gained will benefit their country's economies. Examples of such disciplines include management and administration,

engineering and technology, agriculture, computer studies, ocean management and environmental protection, education, health and nutrition.

Scholarships are awarded to deserving students with high academic standings, good motivational skills and strong potential for significant future contributions to their country following their course of study in Canada. Students are carefully chosen based on a competitive basis, open only to those who agree to come to Canada as visitors. Applicants must make a contractual commitment with CIDA to return to their country of origin upon completion of their study program, so that they may contribute towards the development of their country.

2.5.5 Processing CIDA applications

a) Administration

The administration of all CIDA programs is delegated to various Executing Agencies such as private sector companies, universities, public organizations or embassies of recipient countries.

Usually, CIDA representatives overseas counsel sponsored students before their arrival in Canada. In some cases, CIDA delegates this task to a fellowship coordinator or an Executing Agency representative.

b) Inquiries

Any inquiries regarding program, policy and case related issues should be addressed to:

Canadian International Development Agency
Canadian Partnership Branch
200 Promenade du Portage
Hull, Québec K1A 0G4
Tel.: (819) 997–5435
Fax: (819) 997–0513

Any inquiries regarding processing procedures should be addressed to CIC Economic Policy and Programs Division, (SSE).

c) Identification Code

Officers will identify CIDA students or trainees with Code 599 on the student authorization. In addition, where a visa is issued, the notation "CIDA Student" must be included underneath the visa.

d) Validity period

Students entering Canada under programs sponsored by CIDA should be issued student authorizations on a year to year basis.

e) Refusals

When a CIDA student is found inadmissible, officers will report the case to the local CIDA representative or to the CIDA NHQ/Trainees and Awards Section noted above.

f) Change of status

CIDA students are required to return to their country of residence once their study program is completed. As a requirement of admission, CIDA has included a Consent to Release Information in its Form 656: Agreement with Respect to Training In Canada. When a CIDA sponsored student, or his/her dependants, make an application

to change their status from student to permanent resident or submit a refugee claim, officers should contact CIDA to request a copy of the individual Consent to Release Information Form. Once this form is received, officers should advise CIDA of the application for change of status.

CIC will then proceed to assess individual cases in the usual manner.

2.5.6 DFAIT Programs

The Department of Foreign Affairs and International Trade funds two programs for foreign students:

THE COMMONWEALTH SCHOLARSHIP & FELLOWSHIP PLAN

This Program is designed to provide opportunities for students of other Commonwealth countries to pursue advanced programs in Canada. The Scholarships are tenable at Canadian universities, and are intended for men and women of high intellectual promise who may be expected to make a significant contribution to their own countries on their return from study in Canada.

Scholarships are awarded for studies at the master's and doctoral levels. Awards for a Master's degree are made for two academic years and the intervening summer, except in cases where a shorter period is required. The maximum tenure of an award for a doctoral degree is four calendar years, except in cases where a shorter period is required. Doctoral research scholarships, whereby individuals enrolled in a doctoral program at a university in their home country or a third country can undertake research in Canada, are tenable for no less than a semester and for a maximum of ten months.

The continuance of all awards from year to year is conditional upon the satisfactory progress and conduct of the holder. Award holders are expected to return to their respective countries at the end of their study program.

GOVERNMENT OF CANADA AWARDS

Under this program of academic exchanges, DFAIT offers awards on an annual basis to nationals of various countries. Although the list may vary, these countries currently include France, Germany, Italy, Japan and Mexico.

These awards are intended to enable foreign nationals of high academic standing to undertake graduate studies or post–doctoral research in Canadian institutions. Awards may be applied to research or studies in all areas of the arts, the social sciences and humanities, the natural sciences and engineering.

All applications are judged on a competitive basis. The final selection is made on the basis of the academic or artistic merits of the applicant and the justification for carrying out the proposed program of study or research in Canada.

Candidates who have obtained or plan to obtain landed immigrant status in Canada are not eligible. Award holders are expected to return to their respective countries at the end of tenure or study program.

2.5.7 Processing DFAIT Applications

a) Administration

The International Council for Canadian Studies (ICCS) administers both The Commonwealth Scholarship and Fellowship Plan and the Government of Canada Awards Program, under contract with DFAIT.

b) Inquiries

Any inquiries regarding program or policy should be addressed to:

International Academic Relations Division (ICE)
Foreign Affairs and International Trade
125 Sussex Drive
Ottawa, Ontario K1A 0G2
Tel.: 613/996–1014
Fax: 613/992–5965

Any inquiries regarding case related issues should be addressed to:

International Council for Canadian Studies
325 Dalhousie Street, Suite 800
Ottawa, Ontario K1N 7G2
Tel.: 613/789–7828
Fax: 613/789–7830

Any inquiries regarding processing procedures should be addressed to CIC Economic Policy and Programs Division (SSE).

c) Identification Code

Commonwealth Scholarship and Fellowship Plan Students will be identified by Code 506 on the student authorization. In addition, where a visitor visa is issued, the notation "CSFP Student" will be written underneath the visa.

No special identification code is required for the Government of Canada Awards to Foreign Nationals Program.

d) Validity Period

At visa offices, CSFP Students will initially be issued student authorizations valid for one year. On renewal in Canada, the student authorization may be made valid for the tenure of the award.

Students under the Government of Canada Awards program are usually sponsored for one year. Their authorization should correspond to the duration of the award.

e) Refusals

When a DFAIT–sponsored student is found inadmissible, officers will report the case to ICCS.

f) Change of status

DFAIT–sponsored students are required to return to their country of residence once their study program is completed. ICCS, on behalf of DFAIT, has undertaken to obtain written consent from each student to release personal information to ICCS. When a DFAIT–sponsored student, or his/her dependents, make an application to change status from student to permanent resident or submits a refugee claim, immigration officers will contact ICCS to request a copy of the Consent to Release Information Form. Once the form is received, ICCS should be advised of the application for change of status.

CIC will then proceed to deal with the individual cases in the usual manner.

2.5.8 Exchange Programs

A number of exchange programs are sponsored by private organizations which enable foreign students to attend Canadian schools and be hosted by Canadian families, and vice versa. In most cases, these students do not

require authorizations since their length of stay is usually two to three weeks, and attendance at school is not the primary purpose of the exchange. Other programs, however, such as the Rotary International Youth Exchange Program noted below, will require an authorization.

2.5.9 Rotary Exchange Students

The Rotary International Youth Exchange Program has been operational since the mid−1920s. It involves approximately 10,000 participants ranging in age from 15 to 18. Students live with Rotary families throughout the year, and are financially supported by hosting Rotary Clubs.

The Program requires students to attend school for one year, and includes sponsored events over the summer months after completion of the academic year.

2.6 Student employment

2.6.1 Exemptions Reference Table (see APPENDIX A)

The Exemptions Reference Table in APPENDIX A lists exemptions to employment authorizations and to validation requirements which apply to foreign students.

Briefly, under the terms of R19(1)(x), full time students registered in a degree−granting course are allowed to work on the campus of the institution at which they are registered without the need for an employment authorization.

Several other categories of students are exempt from validation but must be issued an employment authorization.

These exemptions are listed clearly on the table in APPENDIX A. Subsequent sections in this Chapter provide pertinent definitions and details of such exemptions.

2.6.2 On Campus employment: exempt from authorization

Under the terms of R19(1)(x), full time students registered in a degree−granting course are allowed to work on the campus of the institution at which they are registered without the need for an employment authorization.

This exemption applies to students engaged in full−time studies at a university, community college, CEGEP, publicly funded trade/technical school or private institution authorized by provincial statute to confer degrees. Students registered in part−time courses do not qualify.

This exemption applies to students working at any number of jobs on campus, as well as students working as graduate, research or teaching assistants at facilities off campus in research related to their research grant. These facilities could include teaching hospitals, clinics, research institutes, etc., which have a formal association or affiliation with the learning institution.

a) Legislative reference

R18(1)

Subject to subsections 19(1) to (2.2), no person, other than a Canadian citizen or permanent resident, shall engage or continue in employment in Canada without a valid and subsisting employment authorization.

R19(1)

Subsection 18(1) does not apply to a person who seeks to come into Canada for the purpose of engaging in employment or a person in Canada who seeks to engage or continue in employment

R19(1)(x)

as a person who holds a student authorization and who, during the period that the person is a full–time student at the local campus of a university or college, is employed on that campus.

b) Definition of on campus

"On campus" is defined as employment facilities within the boundaries of the campus. The students are only allowed to work on the campus of the educational institution at which they are registered.

If an institution has more than one campus, the student can work at different locations on that campus provided it is within the same municipality. If an institution has campuses in different cities, the student is restricted to the institution's campus where he/she is registered.

There will be cases of students working on campus as graduate, teaching or research assistants. In certain circumstances, the work to be performed will require the student to be located at a library, hospital or research facility affiliated with the institution but located outside the physical limitations of the institution's campus. This is allowable, provided that the research being conducted is strictly related to the student's research grant.

c) Definition of employer

The employer can be the institution, faculty, student organization, private business, or private contractor providing services to the institution on the campus.

Some universities located in city centres have campus grounds widely dispersed among general populated areas. This definition includes such employers whose businesses serve the general consuming public, insofar as the place of business is technically located on the university campus.

d) Eligibility

To be eligible for employment on campus the student must:

i) be in possession of a valid and subsisting student authorization;

ii) be registered in a degree/diploma–granting course of study at an approved institution [A10(a)];

iii) be registered at the educational institution as a full–time student;

iv) work on campus at the institution to which they are registered, whether for the institution itself or for a private business located on campus.

In addition, students working as graduate assistants, teaching assistants or research assistants will be considered to be within the scope of "on campus" employment provided:

i) the student has been recommended by officials of his/her department;

ii) the work to be performed is directed by a department head or a faculty member; and

iii) the work takes place in a research institute or program in an affiliated hospital or research unit.

e) Notation on student authorization

In the case of students exempt from employment authorization, officers should include the following notation on the student authorization:

May accept employment on the campus of the institution at which the holder is registered in full–time studies.

2.6.3 Destitute students – VE Code C05

Due to circumstances beyond their control, foreign students already in Canada sometimes find themselves completely cut off from finances on which they had been counting for their day–to–day needs, as well as for their tuition. While academic institutions do grant some leeway insofar as tuition and residence fees may be concerned, there is no source of relief for the subsistence of destitute students unless they can help themselves through employment. These students should be granted employment authorizations exempt from validation, under Code C05.

a) Eligibility

Each case should be considered on its own merit. Some cases will be self–evident such as cases of war, upheaval in home country, collapse of the banking system, etc..., while others will require further explanation by the applicant, usually at an interview with an immigration officer.

Once such students have been able to establish their destitute circumstances to the satisfaction of an immigration officer, such students should be issued employment authorizations without employment validation.

b) Validity

The employment authorization is to be issued to coincide with the duration of the current term of study, not for the duration of the entire course nor for the duration of the student authorization.

2.6.4 CIDA students – VE Code D30

This validation exemption applies to students sponsored by CIDA when the intended employment is part of the student's program as arranged by CIDA.

2.6.5 Employment integral part of course – VE Code D35

This validation exemption applies to foreign students whose intended employment forms an essential and integral part of their course of study in Canada, and whose employment has been certified as such by a responsible academic official of the training institution. This exemption does not apply to:

- medical interns and externs, resident physicians (except those in veterinary medicine);
- students of accountancy (except those who are in Canada under the terms of the Memorandum of Understanding between Canada and Malaysia).

In cases such as these, the letter provided by the educational institution should establish clearly that the work is a normal component of the academic program which all participants are expected to complete in order to receive their degree, diploma or certificate. The most commonplace example would be undergraduate co–op programs at universities and colleges.

a) Career colleges or language schools

Some students attending career colleges or language schools may also be eligible under this exemption, if there is a work practicum component to their study program. Some of the common elements to look for when these students apply under D35 include:

i) written evidence from the school that a work component is required for successful completion of the course of study. Such evidence may be in the form of a letter from the school, or a copy of the school's curriculum;

ii) details of the work to be performed. Normally, the work will be supervised, and involve a specific number of hours per term or semester. The work may be unpaid at times. The school should be in a position to name the businesses or types of businesses involved in this kind of study/work program.

b) High school students

The Province of British Columbia requires all high school students in grades 11 and 12 to obtain work experience in order to graduate. This requirement applies to students at all institutions authorized by the Ministry of Education to grant high school diplomas, whether a private or public institution.

In these cases, the employer is the school or school district, the location of employment is British Columbia and the employment is open.

Although it has been indicated to BC school authorities that the school should provide a letter to this effect, such is not imperative. If an officer knows for certain that the student is registered at the Grade 11 and/or 12 levels in BC, an employment authorization concurrent with the student authorization should be granted under exemption D35.

2.6.6 Spouses of students – VE Code E07

Spouses of foreign students are allowed to accept employment in the general labour market without the need for validation. This exemption is intended for spouses who are not themselves full–time students.

a) Eligibility

Applicants must provide evidence that they are

i) the spouse of a holder of a student authorization who is attending a post–secondary institution on a full–time basis, or

ii) the spouse of a person who has a valid employment authorization to work at a job related to the course of study, after graduation (under Code E08 following).

Spouses of full–time students are eligible for open or open/restricted employment authorizations, depending on whether or not a medical examination has been passed. There is no need for an offer of employment before issuing an employment authorization.

b) Validity

Employment authorizations can be issued with a validity date to coincide with the spouse's student authorization, including the period of time the spouse is entitled to work after graduation (under Code E08 following).

2.6.7 Employment following graduation – VE Code E08

Students may accept education–related employment for a maximum period of one year following successful completion of their studies, without the need for validation.

a) Eligibility

The following criteria apply:

i) the student must have graduated from a program at a post–secondary institution described in A10(a);

ii) the student must still be in possession of a valid student authorization;

iii) the employment must be consistent with the recently completed course of study; and

iv) the employment must commence within 60 days of issuance of marks;

v) the student must not have been formerly issued an employment authorization under this exemption following any other course of study.

b) Assessment

The policy of post–graduation employment was developed to benefit students in a meaningful way, by enabling them to acquire practical business skills in the Canadian context and undertake an activity consistent with their recently completed course of study.

In the majority of cases, the assessment of eligibility will be fairly straightforward. Where the student's eligibility is not clear to the officer, the test to be applied relates to the following:

i) does the employment require the level of training the student has achieved?

ii) is the employment of a type for which graduates at the same level of study would normally be recruited?

If the a relationship can be established and the answers weigh in favour of the client, officers should not hesitate to approve the request.

c) Validity

Employment under E08 is limited to a cumulative and concurrent period of one year in duration only. This is a one–time validation exemption which cannot be used again following the completion of any subsequent courses of study. Extensions beyond one year will require validation.

2.6.8 Scholarship students petitioned by a university – VE Code E30

This exemption applies to foreign students who are the subject of a petition by a Canadian university or college on the basis that the student was accepted by the institution on an academic or athletic scholarship and

whom, in the opinion of the institution and the Director of Immigration, it would be in the best interests of all concerned to permit to take employment arranged by the institution.

2.6.9 International student and young workers – Code VE35

There are a number of International Student and Young Worker Employment Programs which qualify under validation exemption These programs are usually based on reciprocity and exchanges with a number of countries. Authorizations can be issued for between 1 to 18 months, depending on the type of program.

The employment can be open or employer specific. When issuing an "open" employment authorization, an occupation restriction must be specified if the applicant has not passed an immigration medical. Once the applicant has completed the medical requirement, the term and condition can be removed.

Programs which qualify for this exemption and the various conditions and eligibility requirements which apply are outlined in the Table at APPENDIX B which is set out alphabetically by program, and APPENDIX C set out alphabetically by country.

2.7 Minor students

The regulations make no distinction between minor students and those who are of the age of majority. There are, however, issues related to minor students, particularly those who plan to enter Canada unaccompanied, which distinguish these applicants from those destined to institutions at the post–secondary level.

Education, health, community and social services and guardianship are matters of provincial jurisdiction. Following consultations with the provinces and territories, a cohesive approach to the processing of minor students has been developed. One common theme which emerged from the consultations is that the recruitment of foreign students, even at the primary and secondary levels, provides an important economic and cultural contribution to all provinces and territories. These benefits must be tempered, however, with a corresponding vigilance for the protection and well–being of the minor.

2.7.1 Guardianship/Custodianship

Legal guardianship is an expensive and lengthy procedure in most jurisdictions, and is likely to be granted only where the minor is an orphan or is a ward of the province/territory. For the purposes of a student authorization application, therefore, the term custodianship is more appropriate.

Under A19(1)(b, before they issue any document, visa officers must be satisfied that adequate arrangements are in place for the care and support of those who are unable to support themselves. The onus is on the applicant to satisfy the assessing officer that the terms of section 19(1)(b) are met.

To satisfy section 19(1)(b), all applicants must supply proof in the form of notarized declarations, one signed by the parent or legal guardian in the country of origin, as well as one signed by the custodian in Canada, stating that arrangements have been made for the custodian to act in place of a parent in times of emergency, as when immediate medical attention or intervention is required.

A broader notarized declaration may fulfil the section 19(1)(b) requirement in all cases. It would state that a Canadian citizen or permanent resident of at least 19 years of age is prepared to act in place of the parent. In the case of a child attending a boarding school, this declaration may be signed by the principal.

The visa officer may require the broader notarized declaration depending on the age of the child. A very young student, for example, would need someone to step into the shoes of the parent. A student near the age of majority might only need someone to act in place of the parent in the event of an emergency.

2.7.2 Health Insurance

Not all provinces and territories extend public health insurance benefits to foreign students. At the time of writing, only Saskatchewan and the Northwest Territories extend immediate coverage to foreign students. BC, Alberta and Nova Scotia do extend coverage, although after various waiting periods. No other jurisdiction extends benefits; therefore, applicants must be counselled as to the advisability of obtaining private insurance prior to arrival in Canada; for Québec–destined students, insurance may be a pre–condition to the issuance of the CAQ. Officers should note clearly on the file or in casenotes that the applicant was indeed provided with this information. Alternatively, application kits should include a notice to this effect. In the absence of a regulatory obligation, issuance of the authorization should not be held pending proof of private health insurance coverage.

2.7.3 Fees

Section R15.(1)(b)(i) clearly states only that the onus is on the applicant to demonstrate that he/she has sufficient financial resources available to him/her for payment of tuition fees once in Canada. Tuition fees vary between jurisdictions, and may be as high as $10,000. Student authorizations may not, therefore, be refused to minors who do not present proof of payment of tuition fees. A student authorization may not, however, be issued unless the applicant provides a letter of acceptance from the appropriate educational authorities. The onus, therefore, is on the provinces, and not on CIC officers, to ensure their school boards and divisions include provisions for the payment of fees as a pre–condition to the issuance of acceptance letters.

2.7.4 Bona Fides

As indicated above, there is no distinction in law between minor students and those who are of the age of majority. Bona fides of all students must be assessed on an individual basis; refusals of non–bona fide students may only withstand legal challenge when the refusal is based on the information related to the specific case before the officer. Therefore, while cultural context or historical migration patterns of a client group may be a contributing factor to the decision–making process, they alone are not valid, legally tenable grounds for refusal on bona fides. If officers wish to take into account outside information, particularly where that information leads to concerns/doubts about the applicant's bona fides, they must be able to show that the applicant was made aware of the information taken into account and/or the concerns and was given an opportunity to address those concerns. The onus, as always, remains on the applicant to satisfy the assessing officer that s/he is not an intending immigrant, that s/he is a bona fide visitor who will leave Canada following

the completion of his/her studies pursuant to section A9(1.2). Refusals on these grounds should cite this particular section of the Act and not those found under section A8(2).

It is recommended that a copy of the refusal letter be kept on file, whether as a hard copy or in an electronic format in the event of legal challenge.

2.7.5 Document Issuance

Officers are reminded that student authorizations for minors are not to be institution or jurisdiction specific, but that they are to be issued with a validity not in excess of 12 months. Exceptions to this are:

a) dependents of persons who have been issued long–term authorizations (visitor, student, worker). the validity must not exceed that of the document issued to the head of the family, and;

b) other deserving situations, such as students from the United States having no other option but to attend school in Canada and where there is no objection from the receiving schol district (i.e.: Americans from Hydar, Alaska attending school in Stewart, B.C.).

Inland offices are reminded that, when processing requests for extensions for students in the province of Québec, no new CAQ is required if the program of studies will be completed in a period of less than 12 months.

3. GENERAL ELIGIBILITY CRITERIA

3.1 Where clients apply

3.1.1 Legislative requirement to apply abroad

A10 requires that all visitors intending to study in Canada apply for and obtain a student authorization prior to arrival at a port of entry. The Act stipulates that:

A10 Except in such cases as are prescribed, every person, other than a Canadian citizen or a permanent resident who seeks to come into Canada for the purpose of

(a) attending any university or college authorized by statute or charter to confer degrees;

(b) taking any academic, professional or vocational training course at any university, college or other institution not described in paragraph (a);

shall make an application to a visa officer for and obtain authorization to come into Canada for that purpose.

3.1.2 Exemptions

For details of exemptions, please refer to APPENDIX D. As outlined, exemptions to the requirement to apply abroad fall into four broad categories:

15(2) persons who are not required to obtain a student authorization before arriving at a Port of Entry;

15(3) persons whose application can be processed at a Port of Entry;

16 persons who may apply from within Canada; and

14.2 14.3 persons exempt from the need for a student authorization. Detailed instructions on this category are contained in section 3.1.3.

3.1.3 Persons exempt from student authorizations

Special provisions apply to dependants of diplomats, visitors attending short–term language courses, and persons who intend to enrol in courses of studies that are not academic, professional or vocational in nature.

Pre–schoolers

Pre–school children who attend day–care centres, nursery schools and kindergarten classes below the Grade 1 level do not fall within the provisions of A10(b) and do not, therefore, require student authorizations.

a) Dependants of diplomats

All persons (except persons holding diplomatic, official, special or service passports from Turkey) coming to Canada on posting, including their families, will be in possession of diplomatic or official visas.

Entry is initially authorized for a period of six months. During this period, the passport is forwarded by the person's embassy or consulate to the Office of Protocol of the Department of Foreign Affairs and

International Trade (DFAIT). The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance counterfoil to the person's passport indicating that the person is accredited to Canada and entitled to remain in Canada for the duration of status.

Dependants of diplomatic personnel or members of their staff who wish to attend courses and who possess the acceptance counterfoil obtained from the Office of Protocol do not require a student authorization.

Children under 19

Dependent children of diplomats, consular officers, representatives or officials who are under 19 years of age are considered to be members of the family forming part of the household will be issued acceptances. They do not require a student authorization.

Children over 19

Children over the age of 19 are only issued acceptances if they are registered as full–time students. After 25 years of age, dependants are no longer eligible to receive official acceptances, and must change their official status to regular immigration status. Children over 25 years of age who are full–time students may obtain visitor status with permission to study, if they qualify as dependent children under Immigration Regulations. They are exempt from having to obtain student authorizations.

For information

Questions related to diplomats, consular officers, representatives and officials of foreign missions in Canada should be addressed through National Headquarters to the Office of Protocol, Foreign Affairs, Ottawa, Ontario K1A 0G2. In cases of urgency, contact the Immigration Advisor at the Office of Protocol at (613) 995–5957.

b) Visitors attending short–term language courses

Visitors may enter Canada or remain in Canada without a student authorization to attend a French or English language training course of three months' duration or less. The three–month criterion was established after negotiations with the provinces who have responsibility for education.

There have been instances where persons coming on short–term language courses are registered in a course for periods longer than three months, but have been seeking to enter Canada as visitors under this exemption. The three–month timeframe must be adhered to and anyone seeking to follow a course of longer duration requires a student authorization.

To be eligible under this provision, the course duration does not have to be consecutive, but can be an accumulation of time adding up to three months.

Visitors wishing to continue language training beyond the three–month period or those wishing to enrol in other educational programs must leave Canada and obtain student authorizations in the normal manner.

c) Persons who intend to enrol in courses of studies that are not academic, professional or vocational

The Act does not require student authorizations for persons who intend to enrol in courses of studies that are not academic, professional or vocational in nature.

Academic, professional or vocational training does not include short–term, self–improvement or general–interest courses. Usually, these courses do not have a formal curriculum or a formal examination and do not grant official credit towards a degree or diploma. Although some of the skills learned in these courses might prove useful in the workplace, they are not primarily directed toward career training. Such courses may be offered, among others, by local school boards in continuing education or as a hobby, self–improvement or life–skills courses, and can range from flower arranging and cake decorating to auto mechanics, typing and language courses.

3.2 Letters of acceptance

3.2.1 Legislative requirement

For the exact legislative reference related to letters of acceptance, officers should refer to section 1.2 of this chapter, or to A10(a) and (b) and R15(1)(a).

Generally speaking, the regulations specify that every application for a student authorization shall be accompanied by a letter of acceptance or proof of registration from the educational institution which the student will be attending.

3.2.2 Exemptions

Dependents of holders of student and employment authorizations do not require letters of acceptance. [R15(1.01)].

Because of special sponsorship arrangements, it can be assumed that students sponsored by CIDA and DFAIT meet the requirements relating to acceptance, institution, course of study, and language.

3.2.3 Conditional letters of acceptance

There may be cases when students produce conditional letters of acceptance indicating that the student will be allowed to register at the institution. Visa officers are to treat conditional letters of acceptance as meeting the requirements of R15(1)(a), except where there is serious doubt that registration will be allowed.

Processing should not be delayed, and student authorizations should be issued without advance fulfilment of conditions. The onus is on the institution to specify clearly any condition which is important enough to warrant denial of registration should the condition not be fulfilled. Similarly, the onus is on the student to satisfy the institution in advance that any such important condition has been fulfilled.

Long–term validity

Students with conditional letters of acceptance should also benefit from long–term authorizations, unless there are grave concerns that the conditions cannot be met.

3.2.4 Standard Letters of Acceptance

Students can establish acceptance to a course of study by showing officers a letter of acceptance from the educational institution which they will be attending.

In order to facilitate the processing of applications for student authorizations and reduce delays due to incomplete information, CIC in cooperation with the Advisory Committee on International Students and Immigration, has devised a list of standard items which should be included in all letters of acceptance issued to potential international students.

3.2.5 List of items required in Letters of Acceptance

The following list of items should be included in all letters of acceptance from educational institutions, submitted by students at the time of their application:

- Full name, date of and mailing address of student.
- The course of study for which the student has been accepted.
- The estimated duration or date of completion of the course.
- Date on which the selected course of study begins.
- The last date on which a student may register for a selected course.
- The academic year of study which the student will be entering.
- Whether the course of study is full–time or part–time.
- The tuition fee.
- Any conditions related to the acceptance or registration, such as academic prerequisites, completion of a previous degree, proof of language competence, etc...
- Clear identification of the educational institution, normally confirmed through the letterhead.
- Where applicable, licensing information for private institutions, normally confirmed through letterhead.

3.2.6 Criteria related to course of study

The following criteria apply to all institutions except privately funded institutions in British Columbia which are governed by provincial statute under the Post–Private Secondary Education Act, administered by the Post–Private Secondary Education Commission (PPSEC). In B.C., unlike other provinces, a privately–funded institution registered under PPSEC meets the criteria of R17 regardless of specifications outlined below.

The letter of acceptance from the educational institution must show that the applicant will be pursuing a course of studies which meets at least one of the following criteria, as specified in R17(1)(a) to (e):

a) The course of study is at least six months in duration and involves at least 24 hours of instruction per week. The following factors may be included in calculating the 24 hours per week: laboratory time, library time, and outside work or other assignments that can be considered an integral part of a course of study and study time.

b) The course of study is given by a chartered college or university or by any other publicly funded institution.

c) The course of study is recommended by any department or agency of the government of Canada, or by a department or agency of the government of any province. Federal and provincial government departments or agencies can accept foreign students for specific courses that they may offer from time to time, such as the RCM Police course.

d) The course of study is incidental and secondary to the applicant's main purpose for being in Canada. Accompanying spouses may fall into this category. Such courses can include any full–time or part–time course given at any recognized institution, so long as taking the course will not become the primary reason for the person being in Canada. For example, if a person said that he or she was coming to Canada for four months during which time that person may take a two or three–week summer course, officers should consider the course as incidental to the person's prime purpose. If the person were to say that he or she was coming for four months and would be seeking to take a full–time course for that period, officers should not consider the course incidental to the applicant's prime purpose.

e) The course of study involves upgrading of skills or language training and is given at an institution that operates under a provincial or federal licence. Upgrading of skills is intended to apply to those persons who already have a basic ability which they want to develop further, or those who might require some language training either for itself or to enable the student to meet language requirements to enter university or college.

3.2.7 General application of criteria related to course of study

CIC expects that the provisions of a) and b) above will be the standards governing studies in most cases.

There will be cases, such as those in c), d) and e), where the time and institutional standards will not apply, but where officers should consider the person to be a student for the purposes of the authorization.

Courses taken under b), c), d) or e) may be part–time and may be less than six months' duration.

3.2.8 When applicants have to meet conditions of enrolment

If an educational institution issues a letter of acceptance subject to certain conditions such as payment of fees, the achievement of certain academic standards or completion of a previous degree, the institution considers that the applicant will fulfil the conditions of enrolment. It is not the responsibility of the visa or immigration officer to ensure that the applicant complies before issuing an authorization. The onus is on the institution. Processing should proceed and authorizations should be issued without advance fulfilment of conditions.

3.2.9 Applicant's knowledge of English or French

There may be cases where officers feel that a student's lack of English or French will make it extremely difficult for that student to follow the desired course of studies.

Nevertheless, since chartered universities or colleges either require minimum pass marks on a language test before offering admission, or have structures in place to upgrade language skills, the apparent lack of language ability in students destined to one of these institutions should not be a concern. If officers have serious doubts, and where the educational institution has issued a letter of acceptance, officers may contact the geographic desk at NHQ.

Officers at NHQ will verify the status of the case with the institution and inform the visa office accordingly. If the institution maintains the acceptance despite the officer's observations, NHQ will advise the visa office to proceed with the application.

In rare cases where it seems clear that the lack of English or French will make it extremely difficult for a student to pursue a desired course of study, officers may want to discourage that student from pursuing an application for a student authorization. Otherwise, officers should proceed as directed above.

3.2.10 When Letters of Acceptance are incomplete

Through the Advisory Committee on International Students and Immigration, CIC has made educational institutions aware that information on all standard items listed above will greatly facilitate the processing of student authorizations. However, there may be instances where letters of acceptance will be incomplete, or where some institutions may be unable to provide the requested information.

In such instances, officers may need to seek additional information from their geographic desk at NHQ who will contact the educational institution directly, in order to satisfy themselves that all criteria are met before an authorization is issued. NHQ will then advise the visa office accordingly.

3.2.11 Letters of Acceptance from prescribed institutions

Letters of acceptance to the institutions listed in Schedule III R17(2) are not acceptable for student admission. For the list of prescribed institutions, refer to section 1.2.9. For an explanation of the rationale behind prescribing institutions, refer to section 2.4.

3.3 Financial sufficiency

3.3.1 Legislative requirement

For the exact legislative reference related to financial sufficiency, officers should refer to section 1.2 of this chapter, or to R15(1)(b).

In general, officers need to satisfy themselves that applicants have sufficient financial resources to pay their tuition fees, transportation costs to and from Canada as well as living expenses for themselves and any dependents who may be accompanying them, without the need to engage in employment.

3.3.2 Exemptions

Refugee claimants and their dependants applying for a student authorization in Canada are exempted from these financial requirements. [R15(1.1).]

Because of special sponsorship and funding arrangements, it can be assumed that students sponsored by CIDA and DFAIT meet the financial requirements relating to single students. Students with spouse and dependants must have additional funds in accordance with the formula outlined below.

3.3.3 Basis of formula for determining financial sufficiency

In order to facilitate the assessment of financial sufficiency, and ensure more consistency in the processing of applications, CIC has developed a special formula, in consultation with DFAIT, visa offices, and international student interest groups which have an interest in facilitating the recruitment of students from abroad.

The foundation of this formula is the use of a base amount for students which covers all costs except tuition, plus an additional base amount for spouses and another for dependants, as applicable. The base amount for students satisfies all requirements related to maintenance and transportation, including the cost of books, equipment and supplies. The economic framework or size of the community where the student is destined is not a consideration, and the amount will allow for a very basic lifestyle only. The base figure will be reviewed annually and adjusted as required.

3.3.4 Formula for all provinces except Québec

The following formula applies to all applications except those from students destined to Quebec. The different formula for Quebec students is outlined below.

STUDENT BASE	$10,000 for twelve–month period, plus the cost of tuition, pro rated at $833 per month.
SPOUSAL BASE	$4,000 for twelve–month period for spouse or adult companion, pro–rated at $333 per month.
DEPENDANT BASE	$3,000 for twelve–month period per dependant child of any age, pro–rated at $255 per month.

3.3.5 Formula for province of Québec

Students destined to the Province of Quebec will continue to be assessed according to criteria developed by MRCIQ.

If the application is being reviewed by an officer at a mission where there are no local Quebec representatives, officers will assess financial sufficiency according to the following criteria.

STUDENT BASE	$9,600 for twelve–month period, plus the cost of tuition, pro–rated at $800 per month.
FIRST DEPENDANT	60% of student base or $5,740 for twelve–month period, pro–rated at $478 per month.
SUBSEQUENT DEPENDANTS	40% of student base or $3,840 for twelve–month period, pro–rated at $320 per month.

3.3.6 Assessment for first year of studies only

Officers are reminded that students are required to demonstrate financial sufficiency for the first year of studies only, regardless of the duration of the course of studies in which the student in enroled. In other words, a single student entering a four–year degree program with an annual tuition

fee of $5,000 must demonstrate funds of $15,000 to satisfy financial sufficiency requirements, and not the full $60,000 which would be required for four years.

3.3.7 Other sources of support

In assessing the adequacy of a student's financial resources, officers may take into consideration such sources of funds derived through scholarships, fellowships, assistantships and the like, as well as financial support or support in kind which may be available from relatives in Canada. Funding from other sources, either in Canada or abroad, may also be considered; however, these must be examined closely for reliability. Officers will not consider as reliable source the student's possible earnings from part–time or summer employment. Foreign students in Canada, as visitors, are ineligible for benefits under the Canada Student Loan Act.

3.3.8 Foreign exchange controls

Foreign exchange control measures are in effect in many countries. Where students are dependent on such controlled funds, they should be required to present one of the following:

a) a letter from a Canadian financial institution stating that funds necessary for the entire upcoming academic year are on deposit in the applicant's name;

b) a bank draft in convertible currency for an amount equal to the funds required for the upcoming academic year and made payable jointly to the educational institution and the applicant; or

c) written assurance from the applicant's bank that sufficient funds are on deposit, and from the foreign exchange control authorities that the applicant will be permitted to export a sum adequate for maintenance costs in Canada.

3.3.9 Availability of Funds

Students can establish that they have adequate funds by providing documentary evidence such as:

a) a letter from a Canadian financial institution stating that funds necessary for the first year of the course of study are on deposit with the institution in the applicant's name;

b) a bank draft in convertible currency for an amount equal to the funds required for the upcoming academic year, and made payable jointly to the educational institution and the applicant;

c) written assurance from a bank that applicants have sufficient funds, and, where applicable, from the foreign exchange control authorities that they will be permitted to export a sum adequate for their maintenance in Canada;

d) written statements from support persons in Canada stating that they have the means and agree to support the student;

e) evidence of acceptance in a Canadian government funded program such as CIDA or DFAIT.

3.3.10 Validity period, where no doubt exists on financial sufficiency beyond one year

Where no doubt exists on a student's financial sufficiency beyond the first year of study, and where the full duration of the course exceeds one year, officers will issue the student authorization for the full period of the

course of study, provided all other requirements are met. If applicable, a multiple entry visitor visa should be issued for the same duration as the student authorization.

3.3.11 Validity period, where doubt exists on financial sufficiency beyond one year

While adequate funding for the full duration of the intended program need not be demonstrated at the time of application, officers should also have no reasonable basis to doubt that such funding will be available. Any such doubt would not be grounds for refusal, but rather for limiting the student authorization to a period of one year.

3.3.12 Counselling students on Canadian cost of living

When counselling students on financial requirements, or when distributing counselling material to foreign students, officers should ensure that applicants have a clear understanding that the amount required by CIC for their maintenance and that of their dependants are minimum amounts and will provide for a very basic lifestyle only. This is especially true if the student must live in one of Canada's major cities. Students should give careful consideration to the advice provided by their educational institution on the cost of living in their area, and where possible, ensure that additional funds will be available to meet the level of financial resources suggested by the institution.

3.4 Medical requirements and health insurance

3.4.1 Expediting medicals

Medical requirements for students are the subject of much discussion and the source of some discontent among international student interest groups, as they are seen by CIC stakeholders as the main impediment to speedy processing of student authorizations.

Removal of medical requirements is not an option. However, CIC is reviewing certain aspects, such as those elements which the medical exam should encompass, and whether local doctors should be allowed to perform medicals. Discussions are ongoing with the Advisory Committee on International Students and Immigration on this issue and officers will be kept informed of any streamlining or operational modifications.

On an operational basis, as a way of expediting applications, students should be encouraged to have medicals completed in concert with their application to Canadian educational institutions. For its part, the CIC is encouraging educational institutions to inform students of immigration requirements and the need to do medicals early in the process. Canadian Education Centres abroad should also be encouraged to counsel students accordingly.

3.4.2 Medical requirements

Foreign students must meet the same medical requirements as those which apply to all visitors to Canada.

a) Six–month rule

Generally speaking, students who intend to be in Canada for more than 6 months, and have resided in a designated country for more than 6 months within the year preceding their arrival in Canada are required to undergo a medical examination. The determining factor is

not citizenship, but whether the person resided in a designated country in the preceding 6 months. APPENDIX E lists countries where medicals are **not** required. For the complete list of Medical Requirements and Details by Country, consult IR 3.

b) Designated occupation

Students from non–designated countries must undergo a medical examination if they are to be employed in

- child care,
- primary or secondary teaching, and
- health services field occupations.

Students from designated countries must undergo a medical examination if they are to be employed in

- agricultural,
- child care,
- primary or secondary teaching, and
- health services fields.

3.4.3 Provincial Health insurance

Applicants should be strongly counselled that health insurance is a critical necessity, and that they should arrange for health insurance coverage in advance of arrival in Canada.

The Province of Québec will not issue a CAQ to students unless they show acceptable coverage. To be eligible for health insurance coverage under any of the other provincial or territorial health insurance plans, one must establish residence in a province and register to ensure coverage.

Where applicants are not eligible for provincial health insurance, or where they are eligible after fulfilling certain residency requirements, they should be counselled to register for private plans during their stay in Canada, or until such time as they can qualify for provincial coverage.

Proof of coverage for a period of one year should be sufficient, but applicants should be counselled that they will need to extend their coverage for the duration of their stay in Canada.

Information can be obtained directly through most Universities and schools, or directly from private insurance companies.

Eligibility of provincial health insurance coverage for students and their dependants varies. Consult the chart in APPENDIX F for details.

3.5 Student bona fides

3.5.1 Factors underlying assessment of bona fides

There are two major factors underlying the assessment of student bona fides.

First, foreign students have not represented a control or enforcement problem for Canada. Second, there is a new and growing realization in Canada that foreign students yield significant benefits for our economy.

In administering its foreign student program, CIC must support the policies of other federal government departments, provinces and educational institutions who are anxious to capitalize on the potential which foreign academic talent represents.

3.5.2 Assessment criteria

In establishing whether a foreign student is a bona fide visitor, officers should be guided by the knowledge that foreign students educated in Canada provide needed links for trade and investment, and that they are an excellent source of future skilled immigrants. It is not uncommon for highly qualified students, particularly those at the graduate level, to work for a year after completing their course of studies and apply for permanent residence status through visa offices in the USA. CIC views this development as a positive outcome.

Foreign students have the burden of proving to the satisfaction of officers that they are bona fide visitors. However, in these cases, the general question of bona fides is not so much whether the applicant is a prospective immigrant, but whether the applicant is a prospective illegal immigrant.

3.6 Terms and conditions

3.6.1 Legislative reference

Visa officers may recommend the imposition of terms and conditions, and immigration officers may impose terms and conditions when issuing student authorizations, in accordance with R23. This regulation lists the terms and conditions which may be imposed on all visitors.

3.6.2 Exemption

Terms and conditions cannot be imposed on a student authorization issued to a person who is on a Minister's Permit, or to a refugee claimant who does not have valid visitor status.

3.6.3 Terms and Conditions

A. Required of all foreign students

1. Must be in attendance at an approved type of institution.

This conditions applies to all students other than those attending primary or secondary schools.

All documents should specify the type of educational institution which the student will be attending, such as university or community college, without specifying the specific institution or the program in which the student is enrolled.

For instance, if students wish to change from an engineering course at one university to a medical course at another university, they can do so without the need to obtain a new authorization since they are attending the same type of institution. However, students are required to obtain a new authorization if they wish to change from one type of educational institution to another, for example, from a university to a community college.

B. To be imposed at the discretion of officers

2. Prohibited from engaging in employment in Canada.

This condition prohibiting students from engaging in employment in Canada cannot be applied if officers are issuing an employment authorization along with the student authorization or if the student is eligible to work on the campus of the institution at which s/he is registered on a full–time basis pursuant to R19(1)(x).

3. Attendance only at a university, college or other institution which officers specify by name.

This condition should be reserved for those few cases where officers believe that this type of control is required. No terms and condition referring to attendance at a specific, named educational institution should appear on student authorizations issued to primary or secondary school students.

4. Prohibited from working in certain occupations unless medical requirements have been met.

The following term and condition should be imposed on students who have not undergone a medical examination:

- Students from a non–designated country, not authorized to work in
  - child care,
  - primary or secondary teaching, and
  - health services field occupations.
- Students from a designated country, not authorized to work in
  - agricultural,
  - child care,
  - primary or secondary teaching, and
  - health services fields.

5. Must report for medical examination,surveillance or treatment

If warranted by the student's medical condition, terms and conditions must be imposed as follows:

- the time and place where the student must report for medical examination, surveillance or treatment or for any other purpose;
- the times and places at which the student must furnish evidence of compliance with the terms and conditions thus imposed.

6. Must leave Canada by a specific date.

7. Travel in Canada is restricted.

3.7 Validity periods

3.7.1 Policy intent

CIC is committed to facilitating the recruitment of bona fide students, and to rationalizing the process for them to enter and remain in Canada. Once officers have determined that a student is bona fide and meets the requirements, the operational goal is to eliminate or at least minimize further transactions with the student. This objective remains paramount in the processing of cases, and can be accomplished through several procedures outlined in this chapter, including the issuance of long–term authorizations as specified in this chapter.

3.7.2 Post secondary

In general, the period of validity of student authorizations for students post–secondary students should correspond to the duration of their proposed course of studies in Canada, plus an additional three months. As outlined in sections 2.5.5 d) and 2.5.7 d), this policy does not apply to students sponsored by CIDA or DFAIT.

The determinant factor must be that the student is a bona fide visitor. This policy is meant to assist foreign students who will be studying in Canada at the post secondary level for several years.

The duration of the authorization can be the entire course of post secondary studies, for example, 2 or 3 years for a master's degree, even though the official acceptance letter from the university is only for one year at a time. An additional 3 months should be added to the student authorization to allow the student to prepare for his or her return home, or to arrange for post graduate employment under E08.

Visitor visa

If a visitor visa is issued in conjunction with the student authorization, the length of the visa should also correspond to the length of the student authorization.

Exceptions

Exceptions to this policy which warrant validity periods limited to one year would include:

a) where concerns exist about the student's financial means which are not strong enough to result in a refusal;

b) where concerns exist about the institution with regard to the school's academic or administrative practices;

c) where the length of a program of non academic studies is not clearly identified or appears exaggerated;

d) situations where there are concerns that the person may pose a threat to the well–being of the democracy of Canada. See IC 2, APPENDIX C for a list of statesman/special category countries where this applies, and IC 2, section 44. for the processing procedures applicable for these countries.

Officers may limit the student authorization if they have concerns about a student's financial means which are not sufficient to refuse the application. Limiting the duration of a student authorization should be the exception and should not be used as an excuse for not refusing an application. Officers should remember that it is more often more difficult to refuse an extension of a student authorization in Canada when students have begun their course of studies than to refuse the initial authorization overseas.

3.7.3 Primary and secondary students

Students at the primary and secondary levels should be issued authorizations on a year–by–year basis, except for dependants of persons who have been issued long–term authorizations, provided the period requested does not exceed that which has been given to the head of the family.

3.7.4 Students destined to Québec

In general, the Québec Government issues long–term CAQs to post secondary foreign students destined to Québec. For Québec students, the duration of the student authorization should coincide with the duration of the CAQ.

3.7.5 CIDA students

Students entering Canada under programs sponsored by CIDA should be issued student authorizations on a year to year basis.

3.7.6 DFAIT students

At visa offices, students sponsored under the Commonwealth Scholarship and Fellowship Plan will initially be issued student authorizations valid for one year. On renewal in Canada, the student authorization may be made valid for the tenure of the award.

Students under the Government of Canada Awards program are usually sponsored for one year. Their authorization should correspond to the duration of the award.

3.7.7 Statesman and special category country

Students from a statesman or special category country should have their authorization issued for one year, to be extended on a year–by–year basis once in Canada. See IC 2, APPENDIX C for a list of statesman/special category countries where this applies, and IC 2, section 44. for the processing procedures applicable for these countries.

3.7.8 Rotary Exchange Students

The Rotary International Youth Exchange Program enables students to attend high school for one year and sponsored events over the summer months after completion of academic year. See section 2.5.9.

Consequently, all student authorizations issued to Rotary International Youth Exchange Program participants must be valid until August 31 of the following year.

4. PROCESSING AN APPLICATION ABROAD

4.1 Requirement to apply abroad

A10 requires that all visitors intending to study in Canada apply for and obtain a student authorization prior to arrival at a port of entry.

Refer to section 3.1.1 for details.

4.2 Persons exempt from applying abroad

Exemptions fall into four categories

15(2)	persons not required to obtain an authorization before arriving at a Port of Entry;
15(3)	persons whose application can be processed at a Port of Entry;
16	persons who may apply from within Canada; and
14.2 14.3	persons exempt from the need for a student authorization.

Refer to APPENDIX D for details.

4.3 Documents required with application

The following documents must be provided with application:

- Application Form IMM 1294
- Cost–Recovery Fee
- Letter of Acceptance
- Proof of identity
- Proof of financial support
- CAQ for students destined to Québec

4.4 Reviewing the documentation

Officers should check to ensure that all documents are enclosed with the application and that these have been properly completed.

Québec bound students

Officers are not required to conduct a full assessment for students destined to Québec who are in possession of a valid CAQ. A visa officer may issue the student authorization after having ensured that the student meets the usual statutory requirements, and that financial resources meet Québec's standards outlined at section 3.3.5.

CIDA and DFAIT

Special processing arrangements for students sponsored by CIDA and DFAIT are outlined throughout these procedures. Officers should ensure that all applicable instructions at section 2.5 are followed carefully.

Refer to section 2.5 for details.

4.4.1 Form IMM 1294

Check to ensure that Application form IMM 1294 has been properly completed and signed by the applicant.

4.4.2 Cost Recovery Fee

Determine whether a cost–recovery fee is payable and that payment has been included with the application.

Refer to section 2.3.4 for details on exemptions.

The fee is $125 for a student authorization. Depending on local operating conditions, fees may be payable by cash, Canadian, American or local currency at the rate of exchange set by the Mission; Visa or MasterCard; certified cheque or money order in Canadian funds payable to the Receiver General for Canada.

Refer to section 2.3 for details.

4.4.3 Letter of Acceptance

Each application must be accompanied by a Letter of Acceptance from the educational institution which the student will be attending.

Exemption

Dependents of holders of student and employment authorizations are exempt from this requirement.

CIDA and DFAIT

Because of special sponsorship arrangements, it can be assumed that students sponsored by CIDA or DFAIT meet requirements related to acceptance, institution, course of study and language.

Conditional

Conditional letters of acceptance are acceptable, and students should benefit from long–term authorizations.

Refer to section 3.2.3 for details.

Using the following guidelines, check to ensure that the Letter of Acceptance is complete, and that the course of study meets legislative requirements.

STANDARD INFORMATION

The Letter of Acceptance should include the following basic information:

- The name, date of birth, mailing address of student;
- The course for which the student has been accepted;
- The estimated duration or date of completion of course;
- The date on which course begins;
- The last date on which student must register for course;
- The academic year which student will be entering;
- Whether course is full–time or part–time;
- The tuition fee;
- Any condition related to the acceptance;
- Clear identification of the educational institution;
- Licensing information for private institutions.

Refer to section 3.2 for details.

COURSE OF STUDY

Exemption:

The following criteria do not apply to privately–funded institutions administered by the Post–Private Secondary Education Commission in British Columbia, which are deemed by provincial statute to meet these requirements.

Requirements:

The Letter of Acceptance must show that the applicant will be pursuing a course of studies which meets at least one of the following regulatory requirements:

- is at least 6 months in duration and involves at least 24 hours of instruction per week; [17(1)(a)]
- is given by a chartered college or university, or by any other publicly funded institution; [17(1)(b)]
- is recommended by any department or agency of the Canadian or a provincial government; [17(1)(c)]
- is incidental and secondary to the applicant's main purpose for being in Canada; [17(1)(d)]
- involves upgrading of skills or language training and is given at a provincially or federally licensed institution [17(1)(e)].

Refer to section 3.2.6 and 3.2.7 for details.

4.4.4 Proof of funds

The applicant must present a financial document which officers must review to determine that adequate financial resources are available to support the applicant and any accompanying dependants for the first year of the course of study.

CIDA and DFAIT

Single students sponsored by CIDA or DFAIT are deemed to have sufficient funds by virtue of their sponsorship, but must demonstrate that they have sufficient additional funds to support any accompanying dependants.

Refer to sections 3.3.4 and 3.3.5 for assessment formula.

Refer to section 3.3 for details of financial requirements.

Applicants can establish that they have adequate funds by providing documentation such as:

- Letters or statements from the student's bank;
- Evidence of scholarships, fellowships, research assistantships;
- Written statements from supporting persons stating that they have the means and agree to support the student in Canada;
- Evidence of sponsorship in CIDA or DFAIT Programs.

4.4.5 Proof of identity

Applicants should provide proof of identity such as a passport, a travel document or official identity document, or photocopies of the following pages: identity pages, date and place of issue and validity date.

Officers must be satisfied that applicants have a valid passport upon presentation of their application – they are not required to have a passport valid for the entire duration of their course of studies.

Persons exempt from a passport requirement [R14(4)] should provide an acceptable personal identification such as citizenship document, national identification document birth certificate, etc.

4.4.6 Certificat d'acceptation du Québec

Students destined to an educational institution in Québec require a CAQ, unless they are

- chosen under a government funded program for developing countries as sponsored by CIDA;
- dependants of diplomats accredited to Canada;
- enrolled in a part–time course of less than 20 hours per week;
- enrolled in intensive French or English courses of at least 20 hours per check, for a maximum period of 12 weeks;
- in possession of a Certificat de sélection du Québec (CSQ) when a decision has been made by Canada Immigration to accept to process the application for permanent residence in Canada.

Students who have not finished their course at CAQ expiy

There may be cases where a CAQ has expired but students have not completed their course of study within the initially planned timeframe. In these cases, a new CAQ may not be required, provided studies are finished within twelve months of the CAQ's expiry date. During this period, a new student authorization may be issued without a CAQ, providing the student's program remains unchanged and time required for completion is less than one year. Otherwise, a new CAQ will be required.

Countries served by MRCIQ

A student who resides in a country where there is a Service d'immigration du Québec (SIQ) must apply to that office. The SIQ will review the application and verify that the student's financial resources are adequate. Once the application is approved, the SIQ issues the CAQ and advises the student to contact the visa office.

A visa officer's role is to ensure that the student is a bona fide visitor and all other statutory requirements are met.

Refer to list at section 2.1.6.

Countries not served by MRCIQ

A student who resides in a country where there is no SIQ must send the application to the appropriate MRCIQ regional office in Canada. Educational institutions usually provide the applicant with instructions on how to apply for a CAQ.

An MRCIQ regional office may send by fax or telex to the visa office responsible for processing the student authorization, details of a particular CAQ and an estimate of funds required by an applicant. Upon receipt, the visa office opens a miscellaneous file and awaits contact from the applicant.

A visa officer may issue the student authorization after having ensured that the student meets the usual statutory requirements, and that financial resources meet Québec's standards.

Refer to section 2.1 for details.

4.5 What to do if documents incomplete

If the documents are incomplete, and/or the processing fee is incorrect, processing of the application cannot be initiated until the deficiencies have been corrected.

Officers are to use their judgment in determining the most efficient method of addressing the difficulties. In some cases, a telephone call may best serve the purpose, in others, it may be necessary to return the application and documents to the client with a written request for the missing information.

In some circumstances, depending on the processing office, it may be necessary to have the client come to the office for an interview or to complete the documentation.

4.6 Assessing the application

Once the documentation has been reviewed, officers will need to determine the following elements:

- Is the applicant a bona fide visitor?
- Is the applicant a member of the inadmissible classes?
- Is the applicant from a special category country?
- Does the applicant require a medical examination?
- Does the applicant need a visitor visa?
- Does the applicant need an employment authorization?
- Does the officer have any doubt on the applicant's language ability?
- Does the applicant have health coverage?

4.6.1 Bona fide visitor

Applicants have the burden of proving to your satisfaction that they are bona fide visitors. However, in the case of foreign students, the general question of bona fides is not so much whether the applicant is a prospective immigrant, but whether the applicant is a prospective illegal immigrant.

Refer to section 3.5 for guidance.

4.6.2 Inadmissible class

Review the application form IMM 1294 to determine whether the applicant is described in any section of A19 referring to inadmissible classes.

4.6.3 Special category country

Review IC 2 to determine if the student is from a special category country.

4.6.4 Medicals

Determine whether the applicant must undergo a medical examination, as required by R21(4).

Six–month rule

Students who intend to be in Canada for more than 6 months, and have resided in a designated country for more than 6 months within the year preceding their arrival in Canada are required to undergo a medical examination.

Refer to APPENDIX E for non–designated countries.

Designated occupations

Students from non–designated countries must undergo a medical examination if they are to be employed in

- child care,
- primary or secondary teaching, and
- health services field occupations.

Students from designated countries must undergo a medical examination if they are to be employed in

- agricultural,
- child care,
- primary or secondary teaching, and
- health services fields.

Refer to section 3.4 for details.

4.6.5 Visitor visa

Review Schedule II of Immigration Regulations to determine whether the student requires a visitor visa.

4.6.6 Employment authorization

Refer to APPENDIX A for details.

On campus

Full–time students registered in a degree or diploma–granting course are allowed to work on the campus of the institution at which they are registered without the need for an employment authorization. Officers should include the following remark on the student authorization:

"May accept employment on the campus of the institution at which the holder is registered in full–time studies."

Validation exempt

The following students require an employment authorization, but are exempt from validation under the code indicated at right:

Spouses of students	EO7
Post graduation employment	E08
CIDA students	D30
Co–op education and employment integral to studies	D35
Destitute students	C05
Students petitioned by a university	E30
International Student and Young Worker programs	E35

Refer to section 2.5 for details on Student Employment.

Refer to APPENDIX B and APPENDIX C for E35 programs.

4.6.7 Applicant's knowledge of English or French

There may be cases where officers feel that a student's lack of English or French will make it extremely difficult for an applicant to follow the desired course of studies. This should generally not be a concern, as institutions require a pass mark on language tests before offering

admission, or have facilities for upgrading language skills. Nonetheless, where officers have serious doubts, they should communicate with their geographic desk at NHQ.

Refer to section 3.2.9 for guidance.

4.6.8 Health coverage

Applicants should be counselled on the necessity to obtain health insurance. Different provinces have different requirements with respect to eligibility for provincial coverage.

Refer to section 3.4.3 and APPENDIX F for details.

4.7 Prescribed institutions

Officers must confirm that students are not destined to an institution prescribed in Schedule III of the *Immigration Regulations*.

Refer to section 2.4.1 for details.

4.8 Where concerns exist about institutions

There may be cases when students present a Letter of Acceptance from an institution where concerns exists about its academic or administrative practices. If officers have information about such schools where there is evidence that students never attend, attend infrequently or work illegally, they should pass this information to the CIC Regional office where the institution is located, or to the CPC–Vegreville, or to NHQ/SSE.

4.9 Interviews

In certain circumstances, it may be necessary to interview the applicant. Applicants should not be scheduled for interviews for the sole purpose of obtaining straightforward information. Issues which may warrant the need for an interview would include:

a) questions or doubts concerning applicants' reasons for wishing to come to Canada, the arrangements made for their care and support, and their ability or willingness to leave Canada; or

b) circumstances when the officer needs more information before issuing a refusal.

This is not an exhaustive list. Other exceptional circumstances may warrant an interview.

4.10 Negative decision

If the applicant is found ineligible, and the application is refused, the officer must advise the client of the decision and of the reasons for the refusal in writing.

CIDA Student

When a CIDA student is found inadmissible, the visa officer will report the case to the local CIDA representative or to the CIDA NHQ Canadian Partnership Branch representative listed at section 2.5.5 b).

DFAIT Student

When a DFAIT student is found inadmissible, the visa officer will report the case to the International Council for Canadian Studies, as listed at section 2.5.7 b).

4.11 Issuing the authorization

Once the applicant has been found to meet all eligibility criteria and requirements and a student authorization is to be issued, officers must:

- decide on the validity period;

- decide whether to recommend terms and conditions;
- issue a student authorization or, if the student is processed at a CAIPS office, issue a letter of introduction;
- issue a visitor visa, if required;
- issue an employment authorization, if required.

4.11.1 Validity periods

The following are general guidelines which apply:

Post secondary

Issue long–term authorization based on the length of time the student will require to complete the current course of study, with an additional three months to allow the student to prepare to return home or to arrange for post–graduate employment under E–08. Long–term authorizations apply regardless of the fact that the official acceptance letter from the university may only be valid for one year at a time.

Exceptions to this policy which warrant one–year validity periods include situations where concerns exist about the student's financial means which are not strong enough to result in a refusal, or situations where concerns exist about the institution's academic or administrative practices.

Primary and Secondary

Issue authorizations on a year–to–year basis unless they are dependants of persons with long–term authorizations, provided the period requested does not exceed that which has been given to the head of the family.

Québec

Authorizations should correspond to the validity of the CAQ.

CIDA

Issue yearly authorizations.

DFAIT

Issue authorization for an initial one–year period, with renewal valid for the tenure of the award.

Statesman and special category country

Issue a one–year authorization with yearly extensions. List of countries included in IC 2, APPENDIX F, and processing procedures outlined in IC 2, section 44.

Refer to section 3.7 for details.

4.11.2 Terms and conditions

Terms and Conditions are contained in FOSS.

Required for all students attending educational institutions, other than primary and secondary schools:

attend an approved **type** of institution, without specifying which institution or program.

May be recommended at the discretion of the visa officer:

a) prohibited against engaging in employment;

b) attend a university, college or other institution that you specify by name; this does not apply to primary or secondary students;

c) leave Canada by a specific date;

d) prohibit from engaging in employment unless medical requirements have been met;

e) report for medical surveillance, examination or treatment.

Refer to section 3.6 for details.

4.11.3 Issuing the student authorization

Where the visa office is supported by CAIPS, officers should enter into CAIPS the data required to enable Port of Entry officers to produce the student authorization, and issue the letter of introduction to the applicant, as outlined at section 4.11.

Post secondary

If visa officers restrict the validity period of the student authorization to less than the full course of studies for post secondary students, they should note the reason in the "Remarks" box. If this is not done, port of entry officers will amend the authorization to reflect the full period of the course of study.

Québec Student

In the case of students destined to Québec, visa officers are asked to inscribe the number and expiry date of the CAQ in CAIPS under the "Remarks" box on the student authorization in order for the information to be transmitted in FOSS.

CIDA Student

CIDA students will be identified with code 599 on the student authorization.

DFAIT Student

DFAIT students sponsored under the Commonwealth Scholarship and Fellowship Plan will be identified by Code 506 on the student authorization. No special notation is required for Government of Canada Award students.

Non–CAIPS office

If the visa office is not supported by CAIPS, officers will have to complete Student Authorization Form IMM 1208. Instructions are contained in the ID and IH Manuals.

4.11.4 Issuing a Visitor Visa

If the applicant is not from a country described in Schedule II of Immigration Regulations, the visa officer is required to issue a visitor visa. Visas should be issued for multiple entries valid for same period as student authorization. Instructions are contained in OP 9.

CIDA

Where a visitor visa is issued to a CIDA student, the notation "CIDA Student" must be written underneath the visa.

DFAIT

Where a visitor visa is issued to a student sponsored by the Commonwealth Scholarship and Fellowship Plan, the notation "CSFP Student" will be written underneath the visa.

4.11.5 Issuing an employment authorization

If after reviewing the requirements at section 4.6.6 officers determine that an employment authorization is required, they will need to issue the appropriate document to the applicant. Instructions on the issuance of Employment Authorizations are contained in IS 15.

4.12 Introduction letter provided by CAIPS offices

Where an applicant is processed at a CAIPS office, visa officers provide clients with a letter of introduction instead of issuing the student authorization. Students must present this letter at the Port of Entry where officials will issue the authorization. In these cases, the following specific information must be included in the Letter of Introduction issued to the client:

- *Your application to study in Canada has been approved. You may now travel to Canada. You must have a valid passport or travel document.*
- In some circumstances, it may be appropriate to provide the date by which the student must enter Canada. If so, officers should add:

  You must enter Canada no later than.... Failure to do so will invalidate this approval.
- *Please show this letter to the Canada Customs officer upon arrival in Canada. She or he will direct you to a Canada Immigration officer. This second officer will ensure that you meet the requirements for admission to Canada and issue your student authorization.*
- The following disclaimer must be clearly indicated at the bottom of the letter:

  This letter is not valid for travel and is not an authorization allowing you to remain in Canada.
- The document number generated by CAIPS – beginning with F – must be printed at the top right–hand corner of the letter.

5. PROCESSING AN APPLICATION AT A PORT OF ENTRY

5.1 Applicants eligible to apply at POE

Refer to APPENDIX D for detailed information on exemptions which apply to the general rule to apply abroad. In order to determine a person's eligibility to apply at a port of entry, officers will be particularly concerned with references to

- persons who are not required to have an authorization before arriving at a port of entry, [15(2)], and
- persons whose application may be processed at a port of entry [15(3)].

5.2 Persons exempt from Student authorizations

Special provisions apply to dependants of diplomats, visitors attending short–term language courses, and persons who intend to enrol in courses of studies that are not academic, professional or vocational in nature. Special provisions are outlined below.

Pre–schoolers

Pre–school children who attend day–care centres, nursery schools or kindergarten below the Grade 1 level do not fall within the provisions of A10(b) and do not, therefore, require student authorizations.

5.2.1 Dependants of diplomats

All persons (except persons holding diplomatic, official, special or service passports from Turkey) coming to Canada on posting, including their families, will be in possession of diplomatic or official visas.

Examining officers should simply stamp their passports, thereby authorizing entry for a period of six months. During this period, the passport will be forwarded by the person's embassy or consulate to the Office of Protocol of the Department of Foreign Affairs and International Trade (DFAIT). The Office of Protocol will issue a diplomatic (D), consular (C), official (J) or international (I) acceptance counterfoil to the person's passport indicating that the person is accredited to Canada and entitled to remain in Canada for the duration of status.

Dependants of diplomatic personnel or members of their staff who wish to attend courses and who possess the acceptance counterfoil obtained from the Office of Protocol do not require a student authorization.

Child under 19

Dependent children of diplomats, consular officers, representatives or officials who are under 19 years of age who are considered to be members of the family forming part of the household will be issued acceptances. They do not require a student authorization.

Child over 19

Children over the age of 19 are only issued acceptances if they are registered as full–time students. After 25 years of age, dependants are no longer eligible to receive official acceptances, and must change their official status to regular immigration status. Children over 25 years of age

who are full–time students may obtain visitor status with permission to study, if they qualify as dependent children under Immigration Regulations. They are exempt from having to obtain a student authorization.

On the first return to Canada of a representative or dependant whose passport bears a foreign representative acceptance counterfoil, the examining officers should stamp the passport and annotate it "for duration of status."

For information

Questions related to diplomats, consular officers, representatives and officials of foreign missions in Canada should be addressed through National Headquarters to the Office of Protocol, Foreign Affairs, Ottawa, Ontario K1A 0G2. In cases of urgency, contact the Immigration Advisor at the Office of Protocol at (613) 995–5957.

5.2.2 Visitors attending short–term language courses

Visitors may enter Canada or remain in Canada without a student authorization to attend a French or English language training course of three months' duration or less. The course duration does not have to be consecutive, but can be an accumulation of time adding up to three months.

This three–month period must be strictly enforced. Visitors wishing to continue language training beyond the three–month period or those wishing to enrol in other educational programs must leave Canada and obtain student authorizations in the normal manner.

Refer to section 3.1.3 b) for details.

5.2.3 Persons who intend to enrol in courses not academic, professional or vocational in nature

The Act does not require student authorizations for persons who intend to enrol in courses of studies that are not academic, professional or vocational in nature.

Refer to section 3.1.3 c) for definition.

5.3 Reviewing the documentation

Once you have ascertained that the person is eligible to apply at a Port of Entry, and requires a student authorization to study in Canada, you must review the documents to ensure that they are valid and properly completed.

Québec bound students

For students destined to Québec who are in possession of a valid CAQ, officers are not required to conduct a full assessment. A student authorization may be issued after having ensured that the student meets the usual statutory requirements, and that financial resources meet Québec's standards as outlined at section 3.3.5.

Students who are not in possession of a valid CAQ should be issued a three–month permit during which time they must obtain their CAQ from the Regional office of the Ministère des Relations avec Citoyens et de

l'Immigration du Québec (MRCIQ) that serves the educational institution which the students will be attending. Once a CAQ is issued, these students must convert their status accordingly.

CIDA and DFAIT

Special processing arrangements are in place for students sponsored by CIDA and DFAIT. Officers should ensure that all applicable instructions outlined at section 2.5 are followed carefully.

Refer to section 2.5 for details.

Documents required

Each application for a student authorization must be accompanied by the following documentation:

- A Letter of acceptance from the educational institution
- Proof of funds
- Proof of identity
- A CAQ for students destined to Québec

Officers should review this documentation according to the following general guidelines:

5.3.1 Letter of Acceptance

Each application must be accompanied by a Letter of Acceptance from the educational institution which the student will be attending.

Exemption

Dependents of holders of student and employment authorizations are exempt from this requirement.

CIDA and DFAIT

Because of special sponsorship arrangements, it can be assumed that students sponsored by CIDA or DFAIT meet requirements related to acceptance, institution, course of study and language.

Conditional

Conditional Letters of Acceptance are admissible and students should benefit from long–term authorizations.

Refer to section 3.2.3 for details.

Using the following guidelines, you should check to ensure that the Letter of Acceptance is complete, and that the course of study meets legislative requirements.

Refer to section 3.2.3 for details

Standard information

The Letter of Acceptance should include the following basic information:

- The name, date of birth, mailing address of student;
- The course for which the student has been accepted;
- The estimated duration or date of completion of course;
- The date on which course begins;
- The last date on which student must register for course;
- The academic year which student will be entering;
- Whether course is full–time or part–time;

- The tuition fee;
- Any condition related to the acceptance;
- Clear identification of the educational institution;
- Licensing information for private institutions.

Refer to section 3.2 for details.

Course of study

Exemption:

The following criteria do not apply to privately–funded institutions administered by the Post–Private Secondary Education Commission in British Columbia, which are deemed by provincial statute to meet these requirements.

Requirements:

The Letter of Acceptance must show that the applicant will be pursuing a course of studies which meets at least one of the following regulatory requirements:

- Is at least 6 months in duration and involves at least 24 hours of instruction per week; [17(1)(a)]
- is given by a chartered college or university, or by any other publicly funded institution; [17(1)(b)]
- is recommended by any department or agency of the Canadian or a provincial government; [17(1)(c)]
- is incidental and secondary to the applicant's main purpose for being in Canada; [17(1)(d)]
- involves upgrading of skills or language training and is given at a provincially or federally licensed institution [17(1)(e)].

Refer to sections 3.2.6 and 3.2.7 for details.

5.3.2 Proof of funds

The applicant must present a financial document which officers must review to determine that adequate financial resources are available to support the applicant and any accompanying dependants for the first year of the course of study.

CIDA and DFAIT

Single students sponsored by CIDA or DFAIT are deemed to have sufficient funds by virtue of their sponsorship, but must demonstrate that they have sufficient additional funds to support any accompanying dependants.

Refer to sections 3.3.4 and 3.3.5 for assessment formula

Applicants can establish that they have adequate funds by providing documentation such as:

- Letters or statements from the student's bank;
- Evidence of scholarships, fellowships, research assistantships;
- Written statements from support persons stating that they have the means and agree to support the student;
- Acceptance in CIDA or DFAIT sponsored programs.

Refer to section 3.3 for details of financial requirements.

5.3.3 Proof of identity

The client should provide proof of identity by showing officers a passport, a travel document or official identity document, or photocopies of the following pages: identity pages, date and place of issue and validity date.

Persons exempt from a passport requirement [R14(4)] should provide an acceptable personal identification such as citizenship document, national identity document, birth certificate, etc.

5.3.4 Certificat d'acceptation

Students destined to an educational institution in Québec du Québec require a CAQ, unless they are

- chosen under a government funded program for developing countries as sponsored by CIDA;
- dependants of diplomats accredited to Canada;
- enrolled in a part–time course of less than 20 hours per week; or
- enrolled in intensive French or English courses of at least 20 hours per week, for a maximum period of 12 weeks;
- in possession of a Certificat de sélection du Québec (CSQ) when a decision has been made by Canada Immigration to accept to process the application for permanent residence in Canada.

Students who have not finished their course at CAQ expiry

There may be cases where students have not completed their course of study within the initially planned timeframe. In these cases, a new CAQ may not be required, provided studies are finished within twelve months of the CAQ's expiry date. During this period, a new student authorization may be issued without a CAQ, providing the student's program remains unchanged and time required for completion is less than one year. Otherwise, a new CAQ will be required.

Where to obtain a CAQ

A student who resides in a country where there is no Service d'immigration du Québec must send the application to the appropriate MRCIQ regional office in Canada. Educational institutions usually provide the applicant with instructions on how to apply for a CAQ.

Refer to list at section 2.1.6.

A student who resides in a country where there is a Service d'immigration du Québec (SIQ) must apply to that office. The SIQ will review the application and verify that the student's financial resources are adequate. Once the application is approved, the SIQ issues the CAQ and advises the student to contact the visa office.

Refer to section 2.1 for details.

5.4 Prescribed institutions

Officers must confirm that students are not destined to an institution prescribed in Schedule III of the Immigration Regulations.

Refer to section 2.4.1 for details.

5.5 Where concerns exist about institutions

There may be cases when students present a Letter of Acceptance from an institution where concerns exists about its academic or administrative practices. If officers have information about such schools where there is

evidence that students never attend, attend infrequently or work illegally, they should pass this information to the CIC Regional office where the institution is located, or to the CPC–Vegreville, or to NHQ/SSE.

5.6 When the applicant is not eligible

If you determine that an applicant is not eligible for a student authorization, you should advise the person:

a) that you cannot issue a student authorization;

b) that the person may apply for a student authorization at a visa office, counselling the person on how to apply; and

c) that the person will be in contravention of the Act if he or she studies in Canada without an authorization.

If the applicant wishes to continue an application for admission, you may examine him or her for entry as an ordinary visitor (see PE 6, Examining Visitors) or initiate enforcement action (see Chapter PE 9, A20 Reports and Voluntary Withdrawal).

CIDA Student

If a CIDA student is found inadmissible, report the case to the CIDA NHQ Canadian Partnership Branch representative listed at section 2.5.5 b).

DFAIT Student

If a DFAIT student is found inadmissible, report the case to the International Council for Canadian Studies, as listed at section 2.5.7 b).

5.7 Assessing the application

Once you have determined that the person you are examining is eligible to obtain a student authorization, you must determine the following:

- Is the applicant a member of the inadmissible classes?
- Are the identity papers valid?
- Is the applicant from a special category country?
- Does the applicant require a medical examination?
- Does the applicant have to pay a cost–recovery fee?
- Do you have any doubt on the applicant's knowledge of English or French?
- Does the applicant have health insurance?

5.7.1 Inadmissible persons

Determine whether the applicant is described in any Section of A19 applying to inadmissible persons.

5.7.2 Identity papers

Review the relevant pages of the passport or identity document to determine its validity. Visitors are not required to have a passport valid for the entire period of the time being requested. Officers could, for example, give applicants entry for three years even though their passport expires in one year. Counsel applicants about the importance of renewing their passport, and advise them that they may be denied entry if they seek to enter Canada with an expired passport.

5.7.3 Special category country

Review IC 2, section 20. to determine if the student is from a special category country.

5.7.4 Medical examination

Determine whether the applicant must undergo a medical examination, as required by R21(4).

Six–month rule

Students who intend to be in Canada for more than 6 months, and have resided in a designated country for more than 6 months within the year preceding their arrival in Canada are required to undergo a medical examination.

Refer to APPENDIX E for non–designated countries.

Designated occupations

Students from non–designated countries must undergo a medical examination if they are to be employed in

- child care,
- primary or secondary teaching, and
- health services field occupations.

Students from designated countries must undergo a medical examination if they are to be employed in

- agricultural,
- child care,
- primary or secondary teaching, and
- health services fields.

Refer to section 3.4 for details.

5.7.5 Cost recovery fee

Determine whether you should assess a cost–recovery fee.

Refer to section 2.3.4 for exemptions.

The fee is $125 for a student authorization. Fees are payable by cash in Canadian funds, Visa or MasterCard; certified cheque or money order in Canadian funds payable to the Receiver General for Canada.

The fee is payable at the time the request is made. Officers will collect the cost–recovery fee only after they decide to issue a student authorization.

Refer to section 2.3 for details.

5.7.6 Applicant's knowledge of English or French

There may be cases where the officers feel that a student's lack of English or French will make it extremely difficult for an applicant to follow the desired course of studies. This should generally not be a concern, as institutions require a pass mark on language tests before offering admission, or have facilities for upgrading language skills. Nonetheless, where officers have serious doubts, they should advise NHQ/SSE.

Refer to section 3.2.9 for guidance.

5.7.7 Health insurance

Applicants should be counselled on the necessity to obtain health insurance. Different provinces have different requirements with respect to eligibility for provincial coverage. If provincial coverage is not an option, applicants should register for a private plan to cover the duration of their stay in Canada.

Refer to section 3.4.3 for details and APPENDIX F for list of provincial coverage

5.8 Issuing the authorization

If you decide to grant entry to a person as a student, you must:

- decide on the validity period of the student authorization;
- decide whether to impose terms and conditions;
- issue a student authorization, and
- counsel the student.

5.8.1 Validity period

The following are general guidelines which apply:

Post secondary

Issue long–term authorizations based on the length of time the student will require to complete the current course of study, with an additional three months to allow the student to prepare to return home or to arrange for post–graduate employment under E–08. Long–term authorizations apply regardless of the fact that the official acceptance letter from the university may only be valid for one year at a time.

Exceptions to this policy include situations where concerns exist about the student's financial means which are not strong enough to result in a refusal, or situations where concerns exist about the institution's academic or administrative practices.

Primary and secondary

Issue authorizations on a year–to–year basis unless students are dependants of persons with long–term authorizations, provided the period requested does not exceed that which has been given to the head of the family.

Québec

Authorizations should correspond to the validity of the CAQ.

CIDA

Issue yearly authorizations.

DFAIT

Issue an initial authorization for one–year with renewal valid for the tenure of the student's award.

Statesman and special category country

Issue a one–year authorization with yearly extensions. List of countries included in IC 2, APPENDIX C, and processing procedures outlined in IC 2, section 44.

Refer to section 3.7 for details.

5.8.2 Terms and Conditions

Terms and Conditions are contained in FOSS.

Required for all students attending educational institutions, other than primary and secondary schools:

attend an approved **type** of institution, without specifying which institution or program.

May be imposed at the discretion of the officer:

a) prohibited against engaging in employment;

b) attend a university, college or other institution that you specify by name; this does not apply to primary or secondary students;

c) leave Canada by a specific date;

d) prohibit from engaging in employment unless medical requirements have been met;

e) report for medical surveillance, examination or treatment.

Refer to 3.6 for details.

Medical instructions

If warranted by the applicant's medical condition, you must impose the terms and conditions as follows:

- the time and place the student must report for medical examination, surveillance or treatment or for any other purpose [R23(3)(k)];
- the times and places at which the student must furnish evidence of compliance with the terms and conditions. [R23(3)(l)].

Exemption

You cannot apply terms and conditions on a student authorization issued to a person who is on a Minister's Permit or to a refugee claimant who does not have valid visitor status.

Refer to section 3.6 for details.

5.8.3 Completing IMM 1442

Officers should prepare the student authorization form IMM 1442 by entering the data into FOSS, using the Full Document Entry screen. Generate the document on the full–document entry printer. If you need help with coding, use the FOSS help screens.

If the FOSS system is not operational, complete the IMM 1208 manually and enter the information in FOSS as soon as it is available.

Québec Student

Inscribe the number and expiry date of the CAQ in FOSS.

CIDA Student

CIDA students will be identified with code 599 on the student authorization.

DFAIT Student

DFAIT students sponsored under the Commonwealth Scholarship and Fellowship Plan will be identified by Code 506 on the student authorization. No special notation is required for Government of Canada Award students.

5.8.4 Counselling

When you are counselling a student, you should cover the following points:

a) the expiry date of the student authorization;

b) the terms and conditions that you have imposed;

c) the procedures for applying for an extension;

d) cost–recovery requirements, should the student need to change his or her student authorization or apply for an employment authorization;

e) procedures for applying for an employment authorization;

f) procedures for changing terms and conditions, such as how to apply for an extension or to request a change of educational institutions;

g) the importance of ensuring appropriate health insurance coverage.

5.9 Student employment

Refer to section 2.6 or APPENDIX A for details.

On campus

Full–time students registered in a degree or diploma–granting course are allowed to work on the campus of the institution at which they are registered without the need for an employment authorization. Officers should include the following notation on the student authorization:

"May accept employment on the campus of the institution at which the holder is registered in full–time studies".

Validation exempt

The following students require an employment authorization, but are exempt from validation under the code indicated at right:

Spouses of students EO7

Post graduation employment E08

CIDA students D30

Coop education and employment integral to studies D35

Destitute studentsC05

Students petitioned by a university E30

International Student and Young Worker programs E35

Refer to Table at APPENDIX B or APPENDIX C for E35 Programs

5.10 Students examined by visa offices

Non–CAIPS Visa Offices

Applicants processed by a non–CAIPS visa office will present a partially completed Form IMM 1208.

CAIPS Visa Offices

Applicants processed by a CAIPS visa office will present a Letter of Introduction. The document number generated by CAIPS which provides access to the appropriate document in FOSS, is printed at the top right–hand corner of the letter and begins with the letter F.

Process at POE

When a student arrives for examination at your POE with the required documentation issued by the mission overseas, you should determine:

Assessment

a) whether the student is still eligible to obtain a student authorization;
   - has there been any change in circumstances?
   - are the medical results still valid?

b) whether the student has paid the cost–recovery fee;

c) whether the student has become inadmissible since being issued the documentation by the visa office;

d) whether the student has funds available, taking into account that the visa office must have been satisfied that there were adequate funds available before issuing the visa; and

e) whether **post secondary students** are entering Canada with a student authorization with a period of validity for the full course of studies; if this is not the case, and if reasons have not been noted in the "Remarks" box, you should amend the authorization to reflect the full period of the course of study.

Issuing an authorization

Impose terms and conditions as appropriate and:

Students processed by a CAIPS visa office:

retrieve the information from FOSS utilizing the entry number indicated on the Letter of Introduction and generate a completed Form IMM 1442.

Students processed by non–CAIPS visa office:

a) complete the IMM 1208 and stamp the student's passport; and

b) enter the information from the IMM 1208 into FOSS.

6. PROCESSING AN APPLICATION IN CANADA

6.1 Persons Eligible To Apply In CAnada

Visitors in Canada eligible to apply for a Student Authorization from within Canada, and persons who are exempt from the need for a Student Authorization, are listed in APPENDIX D. Officers should check this list to determine an applicant's eligibility.

Essentially, immigration legislation requires visitors – students who apply to vary or cancel the terms and conditions of their admission, or to extend their stay in Canada, to submit an application in writing. Clients must provide enough information to enable the officer:

a) to determine whether the client is eligible, and

b) to make a decision.

6.2 Where clients apply

All visitors wishing to apply for a Student Authorization must do so in writing to the Case Processing Centre in Vegreville (CPCV). To apply, clients contact their local Canada Immigration Centre (CIC), TeleCentre or Canada Infocentre to obtain a visitor application kit. This kit contains the application forms, a guide book, a fee schedule and a pre–addressed envelope for the CPCV.

Applications are not dropped off at a CIC but rather mailed directly to the CPCV with the required documentation.

6.3 Role of CPCV and CIC

The CPCV is always the first point for persons wishing to apply for a student authorization in Canada. If certain difficulties develop where the CPCV cannot make a decision, officers will refer the case to the CIC in the client's region.

Negative decisions issued directly by the CPCV will be limited to cases which are incomplete and where attempts to contact the applicant have been unsuccessful, or cases where the client has failed to meet basic eligibility criteria.

Cases referred to the CIC for processing will be finalized there and will not be returned to the CPCV. However, this does not preclude the same client from submitting a new application at a future time to the CPCV.

Refer to section 6.12 for details of referral criteria.

6.4 Valid Visitor status

Persons cease to be visitors when they

a) fail to comply with any term or condition under which they are authorized to remain in Canada;

b) attend an educational institution or engage in employment in Canada without having been authorized to do so;

c) remain in Canada for a period of time greater than that for which they are authorized to remain;

d) have been issued a departure order or have been ordered deported and the order has not been stayed or quashed.

6.5 Status as of date application postmarked

It has been determined that the postmark will be considered to be the effective date of application, or 7 days prior to receipt of the application if the postmark is illegible. This decision applies in the case of applications mailed to a CPC where the expiry of status may be a factor.

6.5.1 Out of status

If upon receipt of the application the client's status has expired, the client is to be considered out of status. An A27(2) report should be completed.

6.5.2 Implied status

A person whose visitor status has expired after the application was received at the CPCV will be considered in status until a decision is made on the application. A person who was in status at the time the application was made is entitled to a decision on this application. This does not allow a person to make application for an extension after the expiry date of the visitor status.

The Canadian courts have ruled that the applicant cannot be held accountable for our administrative delays. Therefore, if there is a time lapse between the time of receipt of an application and its review, the client remains in status until a decision on the application is made.

6.5.3 Approval where implied status occurred

When the application is approved, officers should issue the appropriate document. The date of issue shown on the document represents the date a decision was taken, and the decision cannot be backdated. OFFICERS SHOULD NOT BACKDATE THE DOCUMENT. Observations can be made in the remarks box of the document explaining that a decision was rendered after the expiration date but that the application was received within validity.

6.5.4 Refusal where implied status occurred

When the application is refused, the client must be informed of the decision. Established procedures are to be followed. The letter to the client must not offer any suggestion that status is implied until eligibility can be met. The only advice which should be given to clients on this matter is a warning as to the expiry date of their status.

Communication

Rules of fairness require that a person who makes an application be informed of the ultimate decision respecting the application. Clients will be considered in status until a decision is made and communicated to them.

A2(4) provides that when a decision is rendered other than in the presence of the person, the person shall be deemed to have received the decision seven days after the decision was sent to the person.

Recording

It is imperative that in these cases an NCB (non-computer based entry) is entered into FOSS so that if the client is approached by Immigration or a police agency, records will be available showing that a decision on the client's application has been reached and communicated to the client.

6.6 Service standards at CPCV

The CPCV will communicate a decision within 25 days of the date posted. Applicants are advised not to contact the CIC or CPCV regarding their application before that date. Enquiries regarding the status of an application are made to the local Telecentre or CIC enquiries line, not to the CPCV.

6.7 Cases which cannot be completed at the CPCV

There will be cases which Immigration Officers cannot complete at the CPCV. These cases will be forwarded to the CIC in the client's area. That office will complete the processing of the application. In these cases, the CPCV sends the client a letter confirming that the application has been referred.

6.8 Documents required with application

The following documents must be provided with application:

- Application Form IMM 1249
- Cost–Recovery Fee
- Letter of Acceptance
- Proof of identity
- Proof of financial support
- CAQ for students destined to Québec

6.9 Reviewing the documentation

Check to ensure that all documents are enclosed with the application and that these have been properly completed.

Québec bound students

For students destined to Québec who are in possession of a valid CAQ, immigration officers are not required to conduct a full assessment. An officer may issue the student authorization after having ensured that the student meets the usual statutory requirements, and that financial resources meet Québec's standards outlined at section 3.3.5.

CIDA and DFAIT

Special processing arrangements for students sponsored by CIDA and DFAIT are outlined throughout these procedures. Officers should ensure that all applicable instructions at section 2.5 are followed carefully.

6.9.1 Form IMM 1249

Check to ensure that Application Form IMM 1249 has been properly completed and signed by the applicant. An application which lacks proper signature should be rejected and returned to the client with appropriate notation.

6.9.2 Cost Recovery Fee

Determine whether a cost–recovery fee is payable and that payment has been included with the application.

Refer to section 2.3.4 for details.

The fee is $125 for a student authorization, payable at the time the request is made and should be included with the application. The fee is payable by certified cheque or money order made out to The Receiver General for Canada; Visa or MasterCard.

An application which lacks the proper cost recovery fee should be rejected and returned to the client with appropriate notation.

Refer to section 2.3 for details.

6.9.3 Letter of Acceptance

Each application must be accompanied by a Letter of Acceptance from the educational institution which the student will be attending.

Exemption

Dependents of holders of student and employment authorizations are exempt from this requirement.

CIDA and DFAIT

Because of special sponsorship arrangements, it can be assumed that students sponsored by CIDA or DFAIT meet requirements related to acceptance, institution, course of study and language.

Conditional

Conditional letters of acceptance are admissible, and students should benefit from long–term authorizations.

Refer to section 3.2.3 for details.

Using the following guidelines, you should check to ensure that the Letter of Acceptance is complete, and that the course of study meets legislative requirements.

Standard information

The Letter of Acceptance should include the following basic information:

- The name, date of birth, mailing address of student;
- The course for which the student has been accepted;
- The estimated duration or date of completion of course;
- The date on which course begins;
- The last date on which student must register for course;
- The academic year which student will be entering;
- Whether course is full–time or part–time;
- The tuition fee;
- Any condition related to the acceptance;
- Clear identification of the educational institution;
- Licensing information for private institutions.

Refer to section 3.2 for details.

Course of study

Exemption:

The following criteria do not apply to privately–funded institutions administered by the Post–Private Secondary Education Commission in British Columbia, which are deemed by provincial statute to meet these requirements.

Requirements:

The Letter of Acceptance must show that the applicant will be pursuing a course of studies which meets at least one of the following regulatory requirements:

- Is at least 6 months in duration and involves at least 24 hours of instruction per week; [17(1)(a)]
- is given by a chartered college or university, or by any other publicly funded institution; [17(1)(b)]
- is recommended by any department or agency of the Canadian or a provincial government; [17(1)(c)]
- is incidental and secondary to the applicant's main purpose for being in Canada; [17(1)(d)]
- involves upgrading of skills or language training and is given at a provincially or federally licensed institution [17(1)(e)].

Refer to sections 3.2.6 and 3.2.7 for details.

6.9.4 Proof of funds

The applicant should present a financial document which officers must review to determine that adequate financial resources are available to support the applicant and any accompanying dependants for the first year of the course of study.

CIDA and DFAIT

Single students sponsored by CIDA or DFAIT are deemed to have sufficient funds by virtue of their sponsorship, but must demonstrate that they have sufficient additional funds to support any accompanying dependants.

Refer to sections 3.3.4 and 3.3.5 for assessment formula.

Generally speaking, students enrolled in post–secondary studies will already have satisfied a visa officer of their continuing access to funds. If an application to continue in post–secondary studies is not accompanied by proof of funds, this should not be a barrier to issuing the authorization, provided the applicant is otherwise eligible. Experience has shown that students who have difficulty in maintaining themselves will often not be allowed to continue studies if tuition fees cannot be paid, or will apply for an employment authorization as a temporarily destitute student.

Refer to section 3.3 for details.

6.9.5 Proof of identity

Applicants should provide proof of identity such as a passport, a travel document or official identity document, or photocopies of the following pages: identity pages, date and place of issue and validity date.

Officers must be satisfied that applicants have a valid passport upon presentation of their application – they are not required to have a passport valid for the entire duration of their course of studies.

Persons exempt from a passport requirement [R14(4)] should provide an acceptable personal identification such as citizenship document, national identity document, birth certificate, etc.

6.9.6 Certificat d'acceptation du Québec

Students destined to an educational institution in Québec require a CAQ, unless they are:

- chosen under a government funded program for developing countries as sponsored by CIDA;

- dependants of diplomats accredited to Canada;
- enrolled in a part–time course of less than 20 hours per week;
- enrolled in intensive French or English courses of at least 20 hours per week, for a maximum period of 12 weeks;
- in possession of a Certificat de sélection du Québec (CSQ) when a decision has been made by Canada Immigration to accept to process the application for permanent residence in Canada.

Students who have not finished their course at CAQ expiry

There may be cases where students have not completed their course of study within the initially planned timeframe. In these cases, a new CAQ may not be required, provided studies are finished within twelve months of the CAQ's expiry date. During this period, a new student authorization may be issued without a CAQ, providing the student's program remains unchanged and time required for completion is less than one year. Otherwise, a new CAQ will be required.

Refer to section 2.1 for details.

6.10 Prescribed institutions

Officers must confirm that students are not destined to an institution prescribed in Schedule III of the *Immigration Regulations*.

Refer to section 2.4.1 for details.

6.11 Where concerns exist about institutions

There may be cases when students present a Letter of Acceptance from an institution where concerns exists about its academic or administrative practices. If officers have information about such schools where there is evidence that students never attend, attend infrequently or work illegally, they should pass this information to the CIC Regional office where the institution is located, or to the CPC–Vegreville, or to NHQ/SSE.

6.12 What to do when the application is incomplete

The guide book and forms in each Visitor Application Kit clearly states the information that the applicant must supply and a document checklist is provided as an aid. The following statement is also found in the kit: "Your forms will be returned to you if you omit any of the information requested".

At the CPCV

It is appropriate to make a good faith effort to obtain the required information from the client where there is a reasonable chance that the client has the needed information, or where the client's status will expire prior to the information being returned to the processing office. Officers are to use their judgment in determining the most efficient method of addressing the difficulties. In some cases, a telephone call may best serve the purpose; in others, it may be necessary to return the application and documents to the client with a written request for information.

At the CIC

In addition to seeking information by phone or mail, officers at the CIC may contact the clients asking them to come to the CIC for an interview, or to complete the documentation.

6.13 Criteria for referring CPCV cases to CICs

Although it has been determined that all applications for student authorizations will be processed at CPCV, some will need to be referred to local immigration offices. As a basic principle, the number of cases referred to CICs should be minimized, and should be initiated on the basis that the local CIC will be able to add value in bringing the case to conclusion.

In order to minimize handling, cases referred to a local immigration office for processing will be finalized at that office, and will not be returned to CPCV. However, this does not preclude the same client from submitting a new application at a future time to the CPCV.

The following criteria have been developed to clarify which cases may be transferred:

a) cases which involve an in-depth assessment of bona fides or degree of hardship and require the use of judgment in order to arrive at a decision;

b) cases where a refusal decision requires the exercise of discretion;

c) potential refusals based on criminal, security or medical inadmissibility which could lead to an Act 27(2) report and inquiry;

d) cases of visitors who are in Canada for more than one year where it has not been clearly established that their extended stay is for legitimate purposes;

e) cases of suspected fraud of statutory eligibility criteria;

f) cases for which regional offices or NHQ have generated a referral;

g) cases where it is necessary to interview the client in order to obtain information or clarification of key points;

h) cases where enforcement action may be indicated, including all 27(2) cases which are not resolved through reinstatement or the issuance of a Minister's Permit;

i) cases identified for referral by the CPCV Program Analysis Unit.

6.14 Procedures for referring cases from CPCV to CIC

When a case is referred to a local CIC, the CPCV will provide full reasons for referral. The FOSS/WIP screen will be completed and a copy of the letter sent to the client forwarded to the local immigration office.

6.15 Negative decision by CPCV

CPCV refusal decisions will be limited to applications which fail to meet established eligibility criteria.

Basis for refusal

It is appropriate to make a good faith effort to obtain the required information from the client where there is a reasonable chance that the client has the needed information, or where the client's status will expire prior to the information being returned to the CPCV. Where the information cannot be obtained, the application should be refused.

The department is fully satisfied that the application guidebook is a valid and complete self-assessment tool. Where the client has failed to provide the information or documentation requested in the kit, then refusal is appropriate.

Refusal of an application is a serious step and should not be done hastily or for inappropriate reasons. Officers must distinguish between cases where the client has failed to provide information that is necessary to determine eligibility, and those cases where the information missing is non–essential.

It must be remembered that the underlying assumption of the mail–in system is that our clients are honest and law–abiding individuals. In cases where the client states a fact, officers should assume that the fact stated is true unless they have reasonable evidence to the contrary.

Advising the client

The client must be advised in writing, and full cost recovery fees must still be collected. When advising the client of the refusal, officers must be guided by the principals of fairness and natural justice. They must provide a full and complete explanation to the client of the actual reason for refusal.

CIDA and DFAIT

Refer to section 6.17.

Recording a refusal

In order to accurately record a refusal, officers must enter an NCB (non–computer based entry) on the system. This entry results in the automatic capture of the necessary data.

6.16 Interviews by CICs

In some circumstances, when CICs are reviewing cases referred by the CPCV, it may be necessary to interview clients. Such circumstances may include:

a) if there are questions or doubts concerning clients' reasons for wishing to remain in Canada, the arrangements made for their care and support, and their ability or willingness to leave Canada;

b) where the officer intends to refuse and needs more information before finalizing the case.

6.17 Negative decision by CIC

When the application is refused, the client must be advised of the decision and of the reasons for refusal. A written decision is not necessary in every case; in some cases, it could take the form of an oral communication.

Counsel client

Counsel the client regarding the possible consequences of studying in Canada without authorization. Remind the client who has valid visitor status of the date that his/her visitor status will expire. Inform clients of what action they can take to become eligible for student authorizations.

CIDA and DFAIT

Refer to section 6.18.

Recording a decision

It is imperative in these cases that an NCB (non–computer based entry) be entered into FOSS. This entry results in the automatic capture of the necessary data, providing a record for Immigration Centres or police agencies showing that a decision on the client's application has been reached and communicated to them.

6.18 Negative decisions of CIDA and DFAIT students

When a CIDA student is found inadmissible, the visa officer will report the case to the local CIDA representative or to the CIDA NHQ Canadian Partnership Branch representative listed at section 2.5.5 b).

When a DFAIT student is found inadmissible, the visa officer will report the case to the International Council for Canadian Studies, as listed at section 2.5.7 b).

6.19 Approving the application

If you decide to grant status to a person as a student, you must:

- decide on the validity period of the student authorization;
- decide whether to impose terms and conditions;
- issue a student authorization;
- issue an employment authorization, if required.

6.19.1 Validity period

The following are general guidelines which apply:

Post secondary

Issue long–term authorizations based on the length of time the student will require to complete the current course of study, plus an additional three months to allow the student to prepare to return home or to arrange for post–graduate employment under E–08. Long–term authorizations apply regardless of the fact that the official acceptance letter from the university may only be valid for one year at a time.

Exceptions to this policy include situations where concerns exist about the student's financial means which are not strong enough to result in a refusal, or situations where concerns exist about the institution's academic or administrative practices. In these cases, authorizations should be limited to one year.

Primary and secondary

Issue authorizations on a year–to–year basis unless students are dependants of persons with long–term authorizations, provided the period requested does not exceed that which has been given to the head of the family.

Québec

Issue authorizations corresponding to the validity of the CAQ.

CIDA

Issued yearly authorizations.

DFAIT

Issue an initial authorization for one year with renewal for the tenure of the student's award.

Statesman and special category country

Issue a one–year authorization with yearly extensions. List of countries included in APPENDIX C of IC 2, and processing procedures outlined in IC 2, section 44.

Refer to section 3.7 for details.

6.19.2 Terms and Conditions

Terms and Conditions are contained in FOSS.

Required for all students attending educational institutions, other than primary and secondary schools:

attend an approved **type** of institution, without specifying which institution or program.

May be imposed at the discretion of the officer:

a) prohibited against engaging in employment;

b) attend a university, college or other institution that you specify by name; this does not apply to primary or secondary students;

c) leave Canada by a specific date;

d) prohibit from engaging in employment unless medical requirements have been met;

e) report for medical surveillance, examination or treatment.

Refer to section 3.6 for details.

6.19.3 Completing IMM 1442

Prepare the student authorization Form 1442 by entering the data into the FOSS computer system and having it generate the document on the Full Document Entry printer.

Québec Student

Inscribe the number and expiry date of the CAQ in FOSS.

CIDA Student

Identify CIDA students with code 599 on the authorization.

DFAIT Student

Identify DFAIT students sponsored under the Commonwealth Scholarship and Fellowship Plan by Code 506 on the authorization. No special notation is required for Government of Canada Award students.

6.19.4 Employment authorization

Refer to table in APPENDIX A for exemptions

On campus

Full–time students registered in a degree or diploma–granting course are allowed to work on the campus of the institution at which they are registered without the need for an employment authorization. Officers should inlcude the following notation on the student authorization:

"May accept employment on the campus of the institution at which the holder is registered in full–time studies".

Validation exempt

The following students require an employment authorization, but are exempt from validation under the code indicated at right:

Spouses of students EO7

Post graduation employment E08

CIDA students D30

Coop education and employment integral to studies D35

Destitute students C05

Students petitioned by a university E30

International Student and Young Worker programs E35

Refer to APPENDIX B and APPENDIX C for E35 Programs.

6.20 Change of status of CIDA and DFAIT students

CIDA and DFAIT students are required to return to their country of residence once their study program is completed. As a requirement of admission, students must sign a Consent to Release Information Form When CIDA or DFAIT sponsored students, or their dependants, make an application to change their status from student to permanent resident or submit a refugee claim, officers should contact the sponsoring agency to request a copy of the individual Consent to Release Information Form. Once this form is received, officers should advise CIDA or DFAIT of the application for change of status.

CIDA address at section 2.5.5 b); DFAIT address at 2.5.7 b).

Officers will then proceed to assess individual cases in the usual manner.

6.21 Recording a decision

It is important for officers to report all approved and refused decisions in FOSS.

6.21.1 Approved applications

FOSS automatically records and counts any documents produced. Documents prepared by hand must be entered into FOSS via Status Entry and are thus also automatically recorded.

6.21.2 Refused applications

Information concerning all refused applications must be entered as an NCB (non–computer based entry) into FOSS. This entry results in the automatic capture of the necessary data.

6.22 Releasing information

Refer to section 2.2 for complete information on the release of information and the application of the *Privacy Act*.

APPENDIX A

STUDENT EMPLOYMENT

For full instructions, refer to appropriate manual section indicated in column at right.

CATEGORY	*EMPLOYMENT AUTHORIZATION*	*VALIDATION EXEMPT CODE*	*VALIDITY PERIOD*	*GENERAL ELIGIBILITY*	*MANUAL SECTION*
ON CAMPUS EMPLOYMENT	Exempt 19(1)(x)	Not applicable	Duration of S.A.	Full time student in degree/diploma granting course; Work restricted to campus of institution where registered	2.6.2
ON–CAMPUS EMPLOYMENT FOR GRADUATE, TEACHING OR RESEARCH ASSISTANTS	Exempt 19(1)(x)	Not applicable	Duration of S.A.	Full time student at approved institution; work to be performed directed by department head; work may take place outside campus at affiliated research or similar institute.	2.6.2
DESTITUTE STUDENTS	Required	Exempt C05	Coincide with term of study	Students on valid student authorizations who have become destitute due to circumstances outside their control.	2.6.3
CIDA STUDENTS	Required	Exempt D30	Term of S.A.	Students sponsored by CIDA when intended employment is part of study program arranged by CIDA.	2.6.4 2.5.5
EMPLOYMENT FORMS INTEGRAL PART OF COURSE OF STUDY	Required	Exempt D35	Term of S.A.	Students whose intended employment forms integral part of course of study such as Undergraduate co–op Programs; some programs offered by career colleges or language schools; some high school programs such as Grade 11–12 students in B.C.	2.6.5
SPOUSES OF STUDENTS	Required	Exempt E07	Coincide with spouse's S.A.	Spouses of full–time students are eligible for open or open/restricted employment authorizations, depending on medical requirements having been met.	2.6.6

CATEGORY	*EMPLOYMENT AUTHORI-ZATION*	*VALI-DATION EXEMPT CODE*	*VALIDITY PERIOD*	*GENERAL ELIGIBILITY*	*MANUAL SECTION*
EMPLOYMENT AFTER GRADUATION	Required	Exempt E08	12–month cumulative; One time only	Students who have graduated from post–secondary institution, in possession of valid student authorization, whose employment must be consistent with recently completed course of study and which must commence within 60 days of issuance of marks.	2.6.7
STUDENTS ON SCHOLARSHIP PETITIONED BY A UNIVERSITY	Required	Exempt E30		Students who have been accepted on an academic or athletic scholarship, petitioned by the University, allowed to take employment arranged by the institution.	2.6.8
INTERNATIONAL STUDENT & YOUNG WORKER EMPLOY-MENT PROGRAMS	Required	Exempt E35	From 1 to 12 months	Participants in a number of programs usually based on reciprocity or exchanges, outlined in this Chart.	2.6.9 APPENDIX B APPENDIX C

APPENDIX B
INTERNATIONAL STUDENT AND YOUNG WORKER EMPLOYMENT PROGRAMS – ALPHABETICAL LIST BY PROGRAM – VALIDATION EXEMPTION CODE E35

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
Agence Québec	Belgium	Wallonie Bruxelle	18–30	employer specific	4 to 12 months
Association Québec–France	France		18–30	employer specific	up to 6 months
Canada Switzerland Young Trainee Exchange Program	Switzerland		18–30	employer specific in field of study	18 months
Canada Netherlands Young Workers Exchange Program	Netherlands		18–30	employer specific in field of study	12 months
Canada Germany Young Worker Exchange Program	Germany		18–30	employer specific in field of study	18 months
Canada Finland Career Development Program	Finland		18–30	employer specific career related	18 months
Canada–France Young Worker Exchange Program 1956 Agreement	France		18–35	employer specific in field of study	18 months
Canadian Association of University Teachers of German Workstudent Program	Germany		18–30		2 to 3 months during the summer

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
Canadian Crossroad International (CCI/PAQ)	Multilateral exchange	Programme Africain au Québec Carrefour Canadien International	18–30	employer specific	4 to 5 mths, May to Sept. or Sept. to May
Comité conjoint des Races de boucherie	France		18–30	employer specific	12 months
Cooks and Chefs Apprentice Exchange Program	United States		18–30	employer specific	12 months
German–Canadian Society Program (DKG)	Germany		18–30	employer specific open*	3, mid–July to end October
International Cooperative Education Camosum College, B.C.	Czech	Technical University of Ostrava;	18–30	employer specific	12 months
International Cooperative Education Community College of St.Andrews New Brunswick	England	Thames Valley University, London; Highbury College, London;	18–30	employer specific	12 months
International Cooperative Education Georgian College, Ont.	U.K.	Glasgow College of Food Technology;	18–30	employer specific	12 months
	Italy	Scula Internazionale di Science Turistiche			
International Cooperative Education McMaster University, Ontario	France	Université de Compiègne	18–30	employer specific	12 months
International Cooperative Education Queen's University	Germany	University of Karisauke	18–30	employer specific	12 months
International Cooperative Education Ryerson Polytechnical Institute, Ont.	U.K.	Teesside Polytechnic	18–30	employer specific	12 months

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
International Cooperative Education, Sheridan College	Germany	Berussakademie	18–30	employer specific	12 months
International Cooperative Education Sir Standord University, Ontario	Germany	Breussakademie;	18–30	employer specific	12 months
	Japan	Chuo College;			
International Cooperative Education University of Ottawa, Ont.	France	École U. d'ingénieurs de Lille;	18–30	employer specific	12 months
International Cooperative Education University of Victoria, B.C.	Australia	Swinburne Institute of Technology; Ballarat University;	18–30	employer specific	12 months
	France	Institut des Services appliqués, Rennes;			
	Germany	Fancholshschule Korlsruke;			
	Netherlands	Hogeschool West Brabant;			
	U.K.	University of Surrey;			
	U.S.A.	U. of Philadelphia, Drexel;			
	Russia	Moscow State University;			

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
International Cooperative Education University of Waterloo	Australia	University of New South Wales;	18–30	employer specific	12 months
	France	Université de Compiègne; Université de Nantes; MICEFA, Triade;			
	Germany	Techische U., Braunshweig; U. of Pederburn;			
	Ireland	Ulster Polytechnic;			
	Netherlands	Trente University; Eindhobern University;			
	U.K.	University of Leeds;			
	U.S.A.	University of Cincinnati; Northeastern University.			
International Association for Exchange of Students of Economics and Commerce (AIESEC)	Multilateral exchange		18–30	employer specific	18 months
International Visitor Exchange Program of the Mennonite Central Committee of Canada (IVEP)	Multilateral exchange	Mennonite Central Committee, Winnipeg, Manitoba	18–20	employer specific	12 months
International Rural Exchange (IRE)	Multilateral exchange		18–30	employer specific	6–12 months
International Fund for Ireland	Ireland		18–30	employer specific open*	12, with possible 12 month extension
International Association for Exchange of Student for Technical Experience (AIESTE)	Multilateral exchange		18–30	employer specific	12 months

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
International Agricultural Exchange (IAEA)	Multilateral exchange		18–30	employer specified as IAEA	9 months, Feb. to Nov. 30
Mouvement Québécois des Chantiers	Armenia Belgium Czech France Germany Lithuania Republic of Belarus Russia Slovakia Spain	Republic Headquarters of Student Brigades; Voluntary Service of Armenia (HUJ) Compagnons Bâtisseurs; Agence Québec; Wallonie Bruxelles; Centre for International Youth Exchange and Tourism; Compagnons Bâtisseurs; Concordia; Rempart; Vereinigung Junger Freiwilliger (Union Young Volunteers VJF) Center of Student Activities Belarussian Association of International Yough Work (ATM) Youth Voluntary Service NEX – Slovakia (Association for Int. Yough Exchange & Tourism) Institut Catala de Servecis a la Joventut	18–25	employer specific	1 month
Office Franco–Québécois pour la jeunesse	France		18–30	employer specific	12 months
Student Work Program Abroad See separate attachment					

NAME OF PROGRAM	*COUNTRY*	*PARTICIPATING ORGANIZATION*	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
The Gap Activity Projets Limited	U.K.	Examples of participating Canadian schools are Ashbury College, Upper Canada College, St.John's College.	18–30	employer specific	12
University of Alberta	Sweden	Swedish University of Agricultural Sciences; University of Helsinki;	18–30	employer specific	4 months, from May to September.
University of Ottawa	Netherlands	Haagse Hogeschool	No restriction	open	4 – 8 months
	Australia	Swinburne Institute	No restriction	open	4 – 8 months
Volunteer Abroad Program of the Canadian Federation of Student Services	Multilateral		18–30	employer specific volunteer for camps	6 months, between June & end of Sept.
Working Holiday Program See separate attachment					
Young Farmers Québec	Luxembourg		18–30	employer specific	12

***Note:** When issuing an "open" employment authorization, if the applicant has not passed an immigration medical, an occupation restriction must be specified. Once the applicant has completed the medical requirements the term and condition can be removed.*

STUDENT WORK PROGRAM ABROAD (SWAP)			
COUNTRY	*AGE*	*TYPE OF AUTHORIZATION*	*VALIDITY PERIOD MAXIMUM*
Australia	18–25 26–30 if entry is reciprocal	open*	12 months
Czechoslovakia	18–30	open*	4 months from 1 June to 31 October
Finland	18–30	open*	3 months

STUDENT WORK PROGRAM ABROAD (SWAP)			
COUNTRY	*AGE*	*TYPE OF AUTHORIZ-ATION*	*VALIDITY PERIOD MAXIMUM*
France Stagiaire apprenticeship	18–30	open* employer specific to field of study	4 months from mid–June to end October 9 months maximum
Germany	18–30	open*	3 to 4 months from July 1 to October 31
Ireland	18–30	open*	4 to 6 months
Jamaica	18–30	open*	4 months
Japan	18–25 or 26–30 at discretion of visa officer	open*	12 months
New Zealand	18–30	open*	6 months
Poland	18–30	open*	4 months from 1 June to 31 October
South Africa	18–30	open*	6 months; enrolled fulltime in post secondary studies; have medical insurance; have return ticket/ticket to a 3rd country and $1,000;
The Netherlands	18–30	employer specific	6 months
United Kingdom	18–29, full–time or part–time student or graduates of the year	open*	12 months
United States	18–30	open*	6 months from 1 May to end October

**Note: When issuing an "open" employment authorization, if the applicant has not passed an immigration medical, an occupation restriction must be specified. Once the applicant has completed the medical requirements the term and condition can be removed.*

WORKING HOLIDAY PROGRAM (WHP)			
COUNTRY	*AGE*	*TYPE OF AUTHORIZ-ATION*	*VALIDITY PERIOD* *maximum*
Australia	18–25 26–30 if entry is reciprocal	open*	12 months
Finland	18–30	employer specific	6 months
France	18–30	employer specific	3 months
Germany	18–30	employer specific	3 to 6 months
Ireland	18–30	employer specific	12 months
Japan	18–25 or 26–30 at discretion of visa officer	open*	12 months
Korea	18–25	open	6 months
New Zealand	18–30	open*	12 months
Sweden	18–30	employer specific	6 months
The Netherlands	18–30	employer specific in field of study	6 months
United Kingdom	18–29	employer specific	6 – 12 months

***Note:** When issuing an "open" employment authorization, if the applicant has not passed an immigration medical, an occupation restriction must be specified. Once the applicant has completed the medical requirements the term and condition can be removed.*

APPENDIX C
INTERNATIONAL STUDENT AND YOUNG WORKER EMPLOYMENT – ALPHABETICAL LIST BY COUNTRY – VALIDATION EXEMPTION CODE E35

Note: When issuing an open employment authorization, if the applicant has not passed an immigration medical an occupation restriction must be specified. See section 3.6.3. Once the applicant has completed the medical requirements, the term and condition can be removed.

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
Armenia	Mouvement Québécois des Chantiers/Republican Headquarters of Student Brigades–Voluntary Service of Armenia (HUJ)	18–30 years of age	employer specific	1 month maximum
Australia	Working Holiday Program (WHP)	18–25 years of age 26–30 if their entry is reciprocal	open *	12 months maximum
Australia	Student Work Abroad Program (SWAP)	18–25 years of age 26–30 if their entry is if mutual advantage	open *	12 months maximum
Belgium	Agence Québec/ Wallonie–Bruxelles	18–30 years of age	employer specific	4–12 months maximum
Belgium	Mouvement Québécois des Chantiers/Compagnons Bâtisseurs/Agence Québec/Wallonie Bruxelles	16–25 years of age	employer specific	1 month maximum
Czech Republic	Mouvement Québécois des Chantiers/Centre for International Youth Exchange and Tourism	18–25 years of age	employer specific	1 month maximum
Czechoslovakia	Student Work Abroad Program (SWAP)	18–30 years of age	open *	4 months from 1 June to 31 October
Finland	Working Holiday Program (WHP)	18–30 years of age	employer specific	6 months maximum
Finland	Canada–Finland Career Development Program	18–30 years of age	employer specific career related	18 months maximum
Finland	Student Work Abroad Program (SWAP)	18–30 years of age	open *	3 months maximum

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
France	Working Holiday Program (WHP)	18–30 years of age	employer specific	3 months maximum
France	Student Work Abroad Program (SWAP) – stagiaire apprenticeship	18–30 years of age	open * – employer specific in feild of study	4 months maximum from mid–June to end of October – 9 months maximum
France	Canada–France Young Worker Exchange Program 1956 Agreement	18–35 years of age	employer specific in field of study	18 months maximum
France	Association Québec France	18–30 years of age	employer specific	up to 6 months maximum
France	Office Franco–Québécois pour la jeunesse	18–30 years of age	employer specific	12 months maximum
France	Mouvement Québécois des Chantiers/Compagnons Bâtisseurs	18–25 years of age	employer specific	1 month maximum
France	Mouvement Québécois des Chantiers/Concordia	18 to 25 years of age	employer specific	1 month maximum
France	Mouvement Québécois des Chantiers/Rempart	18 to 25 years of age	employer specific	1 month maximum
France	Comité Conjoint des Races de Boucherie	18 to 30 years of age	employer specific	12 months maximum
Germany	Student Work Abroad Program (SWAP/CIEE)	18–30 years of age	open *	3–4 months maximum from July 1st to 31st of October
Germany	Mouvement Québécois des Chantiers/Vereinigung Junger Freiwilliger (Union of Young Volunteers) (VJF)	18–25 years of age	employer specific	1 month maximum
Germany	Working Holiday Program (WHP)	18–30 years of age	employer specific	3–6 months maximum
Germany	Canada–Germany Young Worker Exchange Program	18–30 years of age	employer specific in field of study	18 months maximum
Germany	German–Canadian Society Program (DKG)	18–30 years of age	employer specific and open *	3 months from mid–July to end of October

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
Germany	Canadian Association of University Teachers of German Workstudent program (CAUTG)	18–30 years of age		2–3 months during the summer months
Ireland	Working Holiday Program (WHP)	18–30 years of age	employer specific	12 months maximum
Ireland	Student Work Abroad Program (SWAP)	18–30 years of age	open *	4–6 months maximum
Ireland	International Fund for Ireland	18–30 years of age	employer specific/ open	12 months with a possible 12–month extension on approval of EAITC
Jamaica	Student Work Abroad Program (SWAP)	18 to 30 years of age	open *	4 months maximum
Japan	Working Holiday Program (WHP)	18–25 years of age 26–30 years of age at the discretion of visa officers	open *	12 months maximum
Japan	Student Work Abroad Program (SWAP)	18–25 years of age 26–30 years of age at the discretion of visa officers	open *	12 months maximum
Korea	Working Holiday Program (WHP)	18–25 years of age	open	6 months
Lithunia	Mouvement Québécois des Chantiers/Center of Student Activities (Litmina)	18–30 years of age	employer specific	1 month maximum
Luxembourg	Young Farmers Quebec/Luxembourg	18–30 years of age	employer specific	12 months maximum
Multilateral Exchange	International Agricultural Exchange (IAEA)	18–30 years of age	employer should be specified as IAEA	February to November 30 each year
Multilateral Exchange	International Rural Exchange (IRE)	18–30 years of age	employer specific	6–12 months maximum
Multilateral Exchange	Canadian Crossroad International/Carrefour Canadien International – Programme Africains au Québec Quebec (CCI)/(PAQ)	18–30 years of age	employer specific	4–5 months either from May to September or September to December

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
Multilateral Exchange	International Visitor Exchange Program of the Mennonite Central Committee of Canada (IVEP)	18–30 years of age	employer specific	12 months maximum beginning in August
Multilateral Exchange	International Association for Exchange of Student for Technical Experience (IAESTE)	18–30 years of age	employer specific	12 months maximum
Multilateral Exchange	International Association for Exchange of Students of Economics and Commerce (AIESEC)	18–30 years of age	employer specific	18 months maximum
Multilateral Exchange	Volunteer Abroad Program of the Canadian Federation of Student Services	18–30 years of age	employer specific (volunteer for camps)	6 months maximum betwwen June and end of September

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
Multilateral Exchange	International Cooperative Education (ICE) – Fanshawe College, Ont./New Hampshire College, USA; or Sheffield Polytechnic, UK U. of Waterloo, Ont./U. of New South Wales, Australia; or U. of Compiègne, France; or U. of Nantes, France; or MICEFA, Triade, France; or Techische U. Braunshweig, Germany; or U. of Paderburn, Germany; or Ulster Polytechnic, Ireland; or Twente University, The Netherlands; or Eindhobern University, The Netherlands, or U. of Leeds, UK; or U. of Cincinnati, USA; or Northeastern U., USA; Community College St Andrew's New Brunswick/Thames Valley University, London England or the Highbury College, London, England U. of Victoria. BC/Swinburne Institute of Technology, Ballarat U., Australia; or Institut des Services appliqués Rennes, France; or Fancholshschule Korlsruke, Germany; or Hogeschool West Brabant, The Netherlands; or University of Surrey, UK; or U. of Philadelphia Drexel, USA; or Moscow State University, Russia U. of Ottawa, Ont../École U. d'ingénieurs de	18–30 years of age	employer specific	12 months maximum

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
Multilateral Exchange	Sheridan College, Ont./Berussakademie, Ge Ryerson Polytechnical Inst., Ont./Teesside Polytechnic, UK Camosun College, BC/Technical U. of Ostrava, Czechoslovakia Georgian College, Ont./ Glasgow College of Food Technology, UK; or Scula Internazionale di Science Turistiche, Italy Queens University, Ont./U. of Karlsauke, Germany SirSandford Fleming, Ont./Berussaka-demie, Germany/Chuo College, Japan McMaster University, Ont./U. of Compiegne, France	18–30 years of age	employer specific	12 months maximum
New Zealand	Student Work Abroad Program (SWAP)	18–30 years of age	open *	6 months maximum
New Zealand	Working Holiday Program (WHP)	18–30 years of age	open *	12 months maximum
Poland	Student Work Abroad Program (SWAP)	18–30 years of age	open *	4 months from 1 June to 31 October
Republic of Belarus	Mouvement Québécois des Chantiers/Belarussian Association of International Youth Work (ATM)	18–25 years of age	employer specific	1 month maximum
Russia	Mouvement Québécois des Chantiers/Youth Voluntary Service	18–30 years of age	employer specific	1 month maximum
Slovakia	Mouvement Québécois des Chantiers/INEX – Slovakia (Assn. for Int. Youth Exchange & tourism	18–30 years of age	employer specific	1 month maximum

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
South Africa	Student Work Program Abroad	18–30 years of age	open*	6 months; enrolled fulltime in post secondary studies; have medical insurance; have return ticket/ticket to 3rd country & $1,000
Spain	Mouvement Québécois des Chantiers/Institut Catala de Serveis a la Joventut	18–30 years of age	employer specific	1 month maximum
Sweden	Working Holiday Program (WHP)	18–30 years of age	employer specific	6 months maximum
Sweden	University of Alberta/Swedish University of Agricultural Sciences	18–30 years of age	employer specific	4 months from May to September
Switzerland	Canada–Switzerland Young Trainee Exchange Program	18–30 years of age	employer specific in field of study	18 months maximum
The Netherlands	Canada–Netherlands Young Workers Exchange Program	18–30 years of age	employer specific in field of study	12 months maximum
The Netherlands	Working Holiday Program (WHP)	18–30 years of age	employer specific in field of study	6 months maximum
The Netherlands	Student Work Abroad Program (SWAP)	18–30 years of age	employer specific	6 months maximum
United Kingdom	Working Holiday Program (WHP)	18–29 years of age	employer specific	6–12 months maximum
United Kingdom	Student Work Abroad Program (SWAP–BUNAC)	18–29 years of age full–time or part–time student or graduates of the year	open *	12 months maximum
United Kingdom	The Gap Activity Projects Limited	18–30 years of age	employer specific	12 months maximum
United Kingdom	Mouvement Québécois des Chantiers/United Nations Association Wales (UNA Wales, IVS)	18–25 years of age	employer specific	1 month maximum

COUNTRY	*NAME OF PROGRAM*	*ELIGIBILITY*	*TYPE OF WORK PERMIT*	*DURATION*
United States	Student Work Abroad Program (SWAP)	18–30 years of age	open *	6 months maximum from 1 May to end of October
United States	Cooks and Chefs Apprentice Exchange Program	18–30 years of age	employer specific	12 months maximum
United States	Mouvement Québécois des Chantiers/Council of International Educational Exhange (CIEE)	18–30 years of age	employer specific	1 month maximum

APPENDIX D

EXEMPTIONS FROM REQUIREMENT TO APPLY ABROAD

For precise legal interpretation, please refer to noted Regulations or section 1.2 of this chapter.

AUTHORIZATION NOT REQUIRED BEFORE ARRIVING AT POE *R15(2)* *Section 1.2.6*	*APPLICATION TO BE PROCESSED AT POE* *R15(3)* *Section 1.2.6*	*PERSONS WHO MAY APPLY FROM WITHIN CANADA* *R16* *Section 1.2.7*	*EXEMPT FROM AUTHORIZATION* *R14.2 and R14.3* *Section 3.1.3*
Dependants of members of military personnel stationed in Canada from a country described at APPENDIX G.	Nationals of the United States	Dependants of members of military personnel	Dependants of diplomats
Dependants of members of clergy who are performing religious duties in Canada	Persons who have been lawfully admitted to the U.S. for permanent residence	Dependants of members of clergy who are performing religious duties in Canada	Visitors attending short–term language courses of three–month's duration or less.
Dependants of media personnel who are covering Canadian events	Residents of Greenland	Dependants of media personnel who are covering Canadian events	Persons who intend to enrol in courses of studies that are not academic, professional or vocational in nature.
Dependants of athletes and coaches who are employed with Canadian based teams or working as referees and umpires;	Residents of St–Pierre & Miquelon	Dependants of persons coming to Canada to engage in athletic or other sport activities or events	Pre–school children who attend day care centres or nursery schools.
Dependants of persons in possession of a valid and subsisting student authorization		Dependants of persons in possession of a valid and subsisting student authorization	Visitors who have bought tour packages which include a study content, such as elderhostel programs.
Dependants of persons in possession of a valid employment authorization		Dependants of persons in possession of a valid employment authorization	

AUTHORIZATION NOT REQUIRED BEFORE ARRIVING AT POE *R15(2)* *Section 1.2.6*	*APPLICATION TO BE PROCESSED AT POE* *R15(3)* *Section 1.2.6*	*PERSONS WHO MAY APPLY FROM WITHIN CANADA* *R16* *Section 1.2.7*	*EXEMPT FROM AUTHORIZATION* *R14.2 and R14.3* *Section 3.1.3*
Dependants of representatives of foreign governments sent by that government to take up duties with a federal or provincial agency under an exchange agreement with Canada;		Dependants of representatives of foreign governments working under an exchange agreement with the Canadian or a provincial government.	
Nationals of the United States		Persons whose application for a student authorization has been approved by a visa officer but to whom the authorization has not been issued	
Persons who have been lawfully admitted to the United States for permanent residence		Persons whose course of study is incidental and secondary to the main purpose of their presence in Canada	
Residents of Greenland		Persons who have been authorized to remain in Canada as visitors and were in possession of a valid student authorization at the time they ceased to be visitors.	
Residents of St–Pierre & Miquelon		Persons whose refugee claims have been referred to the Refugee Division for decision and their dependants.	
Persons whose application for a student authorization has been approved in writing by a visa officer but to whom the authorization has not been issued		Persons who apply for student authorizations to take courses which are incidental or secondary to their main purpose for being in Canada.	
		Persons in possession of a permit issued by the Minister under section 37 of the Act or their dependants.	

APPENDIX E

LIST OF COUNTRIES WHERE MEDICALS ARE NOT REQUIRED

(see section 3.4.2)

This Appendix lists only those countries where medicals are not required. For full list of Medical Requirements and Details by Country, see IR 3.

Aldernay
Andorra
Australia
Austria
Bahamas
Belgium
Bermuda
Brechou
Cambodia
Crozet Arch
Denmark
Fiji
Finland
France
Germany
Gibraltar
Great Britain
Greenland
Guernsey
Holy See
Iceland
Ireland
Island Christmas
Island Lord Howe
Island Niue
Island Norfolk
Island Pitcairn
Islands Balearic
Islands Channel
Islands Cocos
Islands Cook
Islands Falkland
Islands Faroe
Islands Orkney
Islands Tokelau
Isle of Man
Israel
Italy
Japan
Jersey
Liechtenstein
Luxembourg
Malta
Monaco
Netherlands
New Zealand
Northern Ireland
Norway
Romania
San Marino
Sark
Saudi Arabia
Scotland
Spain
St–Pierre et Miquelon
Sweden
Switzerland
Terre Australes & Antartiques
United States of America
Vatican City State
Venda
Wales

APPENDIX F

PROVINCIAL HEALTH INSURANCE PLANS ELIGIBILITY OF FOREIGN STUDENTS AND DEPENDANTS

(see section 3.4.3)

PROVINCE	*ELIGIBILITY OF APPLICANT*		*DEP*
British Columbia	Yes	First day of 3rd month, if student authorization is valid for 6 or more months. Not retroactive. Coverage for period of student authorization. Medical insurance premiums are levied.	Yes
Northwest Territories	Yes	Date of entry with full–time student authorization.	Yes
Yukon	No	Private insurance plans are available.	No
Ontario	No	Private insurance plans are available.	No
Manitoba	No	Private insurance plans are available.	No
Saskatchewan	Yes	Immediate. For duration of full–time student authorization for school in Saskatchewan. For health services in Saskatchewan only.	Yes
Alberta	Yes	With full–time student authorization and with the intention of residing in Alberta for 12 consecutive months. Coverage is date of entry if registered within 3 months. If not registered within 3 months, effective date will be assigned. Health insurance premiums are levied.	Yes
Newfoundland	No	Private insurance plans are available.	No
P.E.I.	No	Private insurance plans are available.	No
Nova Scotia	Yes	First day of 13th month. No retroactive coverage. For health services in Nova Scotia only. May not be absent for more than 31 days during the waiting period. Must have full–time student authorization for 12 months or more. Private insurance plans are available for 12 month waiting period.	Yes
New Brunswick	No	Private insurance plans are available	No
Québec	No	Except students who are in receipt of a bursary from the Government of Québec, or students from countries that have an agreement with Québec. Students from France, Portugal, Sweden, Finland, Luxembourg, Denmark, and Norway are eligible with proper documentation. In the case of all students, Québec will not issue a CAQ unless they show adequate coverage.	No

APPENDIX G

COUNTRIES DESIGNATED FOR THE PURPOSE OF THE *VISITING FORCES ACT*

In accordance with Regulation 15(2) of the *Immigration Act*

"A person who seeks to come into Canada for a purpose referred to in paragraph 10(a) or (b) of the Act is not required to obtain a student authorization before that person appears at a port of entry if that person is a dependant of

(b) a member of the armed forces of a country that is a designated state for the purposes of the Visiting Forces Act who is coming to or is in Canada in order to carry out his official duties, including a person who has been designated as a civilian component of that visiting force;"

Antigua and Barduba
Australia
Bangladesh, People's Republic of
Barbados
Belgium
Belize
Benin
Botswana, Republic of
Brunei
Cameroon
Czech Republic
Denmark
El Salvador
Estonia
Ethiopia
France
Germany, Federal Republic
Ghana
Greece
Guyana
Hungary
Iceland
Italy
Ivory Coast, Republic of
Jamaica
Japan
Kenya
Korea, South
Kuwait, State of
Latvia
Lithuania
Luxembourg
Malawi
Malaysia
Nepal, Kingdom of
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman, Sultanate of
Poland
Portugal
Romania
Sierra Leone, Republic of
Slovakia
Swaziland
Tanzania
Thailand
Trinidad and Tobago
Turkey
Uganda
Ukraine
United Arab Emirates

United Kingdom Great Britain & Northern Ireland

United States

Venezuela

Zambia

Zimbabwe, Republic of

APPENDIX H
SAMPLE OF FORM IMM 1294 B – APPLICATION FOR A STUDENT AUTHORIZATION

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED / PROTÉGÉ UNE FOIS REMPLI • B

APPLICATION FOR A STUDENT AUTHORIZATION
DEMANDE D'AUTORISATION D'ÉTUDE

File - Référence

1 APPLICANT(S) REQUÉRANT(S)	PRINCIPAL APPLICANT REQUÉRANT PRINCIPAL	SPOUSE AND CHILDREN ACCOMPANYING PRINCIPAL APPLICANT CONJOINT ET ENFANTS ACCOMPAGNANT LE REQUÉRANT PRINCIPAL		
Family name Nom de famille				
First name Prénom				
Second name Autre prénom				
Relationship Lien de parenté	SELF LUI-MÊME			
Sex Sexe				
Date of birth Date de naissance				
Place of birth Lieu de naissance				
Citizenship Citoyenneté				
Passport no. N° de passeport				
Passport expiry date Date d'expiration du passeport				
Country of issue Pays de délivrance				
Marital status État matrimonial				

2 Current mailing address of principal applicant
Adresse postale actuelle du requérant principal

Telephone number
Numéro de téléphone ▶

3 Permanent address
Adresse permanente
☐ Same as in box 2 or
Comme à la case 2 ou

4 Present occupation of principal applicant
Profession actuelle du requérant principal

5 Name and address of present employer or school of principal applicant
Nom et adresse de l'employeur actuel ou de l'établissement d'enseignement du requérant principal

6 a) Immigration status of applicant(s) in country where applying
Statut par rapport à l'immigration du (des) requérant(s) dans le pays où la demande est présentée

b) Valid until
Valide jusqu'au

DO NOT WRITE IN THIS SPACE
ESPACE RÉSERVÉ

FOR OFFICE USE ONLY - RÉSERVÉ À L'ADMINISTRATION

Cost recovery code
Code de recouvrement des coûts

Fee Droit	Receipt no. N° du reçu
Final Decision - Décision finale	
Visa issued ☐ Visa délivré / Refused ☐ Refusé	Valid until Valide jusqu'au

Officer - Agent

IMM 1294 (05-97) B

Canada

APPENDIX I

SAMPLE OF FORM IMM 1249 E – APPLICATION TO CHANGE TERMS AND CONDITIONS OR EXTEND MY STAY IN CANADA

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED - B

PAGE 1 OF 8

APPLICATION TO CHANGE TERMS AND CONDITIONS OR EXTEND MY STAY IN CANADA

(NOTE: This form can be used to request/apply for more than one of the below for yourself or your family members - use space provided in Part B.)

I AM APPLYING FOR: ► "A" ☐ Extension of Visitor / Tourist Status "B" ☐ Student Authorization or Extension "C" ☐ Employment Authorization or Extension "D" ☐ Extension of Minister's Permit

NOTE: The required fee accompanying this application does not guarantee its acceptance.

For official use only
Client ID Number

A - PERSONAL INFORMATION

1 Surname (Family name) | Given name(s)

Other name(s) used | Sex ☐ Male ☐ Female

Date of birth D M Y | Place of birth (City, state/province and country)

Citizenship | Passport number | Expiry date | Country of last permanent residence ☐ Since birth ☐ Since 19___

MARITAL STATUS ► ☐ Never married ☐ Married ► If you are married, is your spouse Canadian citizen or permanent resident? ☐ Yes ☐ No ☐ Widowed ☐ Separated ☐ Divorced

Complete residential address in Canada: No. and street | Apt./Unit | City/Town | Province | Postal code

Complete mailing address in Canada (if different from residential address): No. and street | Apt./Unit | City/Town | Province | Postal code

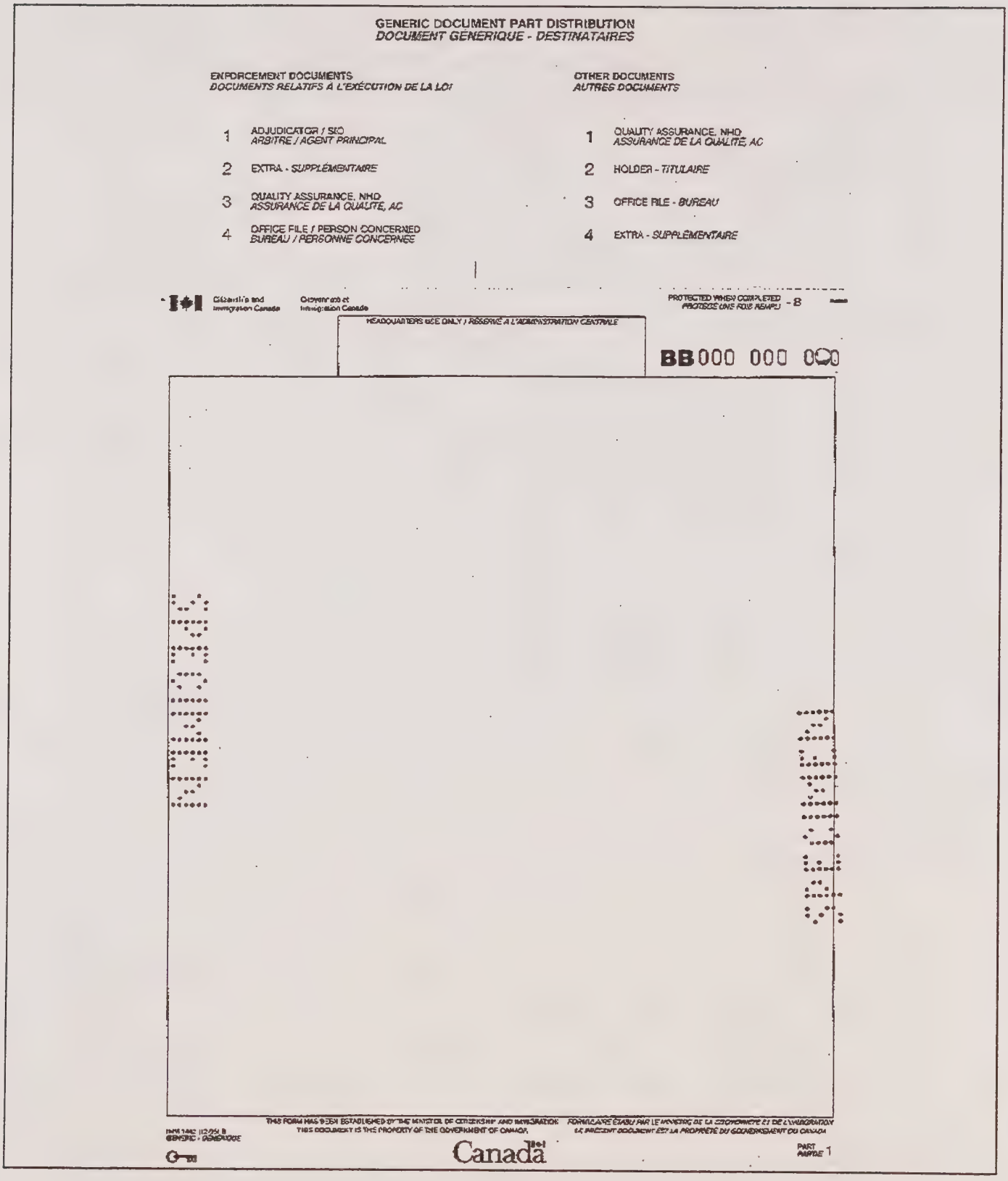
Home telephone number: Area code | Telephone number in Canada for messages: Area code

B - MY FAMILY MEMBERS IN CANADA

2 Surname (Family name)	Given name(s)					Relationship
Date of birth D M Y	Country of birth	Citizenship	Passport number	Expiry date	Type(s) of document requested ☐ A ☐ B ☐ C ☐ D ☐ None	
3 Surname (Family name)	Given name(s)					Relationship
Date of birth D M Y	Country of birth	Citizenship	Passport number	Expiry date	Type(s) of document requested ☐ A ☐ B ☐ C ☐ D ☐ None	
4 Surname (Family name)	Given name(s)					Relationship
Date of birth D M Y	Country of birth	Citizenship	Passport number	Expiry date	Type(s) of document requested ☐ A ☐ B ☐ C ☐ D ☐ None	
5 Surname (Family name)	Given name(s)					Relationship
Date of birth D M Y	Country of birth	Citizenship	Passport number	Expiry date	Type(s) of document requested ☐ A ☐ B ☐ C ☐ D ☐ None	
6 Surname (Family name)	Given name(s)					Relationship
Date of birth D M Y	Country of birth	Citizenship	Passport number	Expiry date	Type(s) of document requested ☐ A ☐ B ☐ C ☐ D ☐ None	

IMM 1249 (12-96) E (DISPONIBLE EN FRANÇAIS - IMM 1249 F) Canada

APPENDIX J
SAMPLE OF FORM IMM 1442 B – FOSS FULL DOCUMENT ENTRY – GENERIC



GENERIC DOCUMENT PART DISTRIBUTION
DOCUMENT GÉNÉRIQUE - DESTINATAIRES

ENFORCEMENT DOCUMENTS
DOCUMENTS RELATIFS À L'EXÉCUTION DE LA LOI

1 ADJUDICATOR / SIO
ARBITRE / AGENT PRINCIPAL

2 EXTRA - *SUPPLÉMENTAIRE*

3 QUALITY ASSURANCE, NHQ
ASSURANCE DE LA QUALITÉ, AC

4 OFFICE FILE / PERSON CONCERNED
BUREAU / PERSONNE CONCERNÉE

OTHER DOCUMENTS
AUTRES DOCUMENTS

1 QUALITY ASSURANCE, NHQ
ASSURANCE DE LA QUALITÉ, AC

2 HOLDER - *TITULAIRE*

3 OFFICE FILE - *BUREAU*

4 EXTRA - *SUPPLÉMENTAIRE*

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED / *PROTÉGÉ UNE FOIS REMPLI* - B

HEADQUARTERS USE ONLY / *RÉSERVÉ À L'ADMINISTRATION CENTRALE*

BB 000 000 000

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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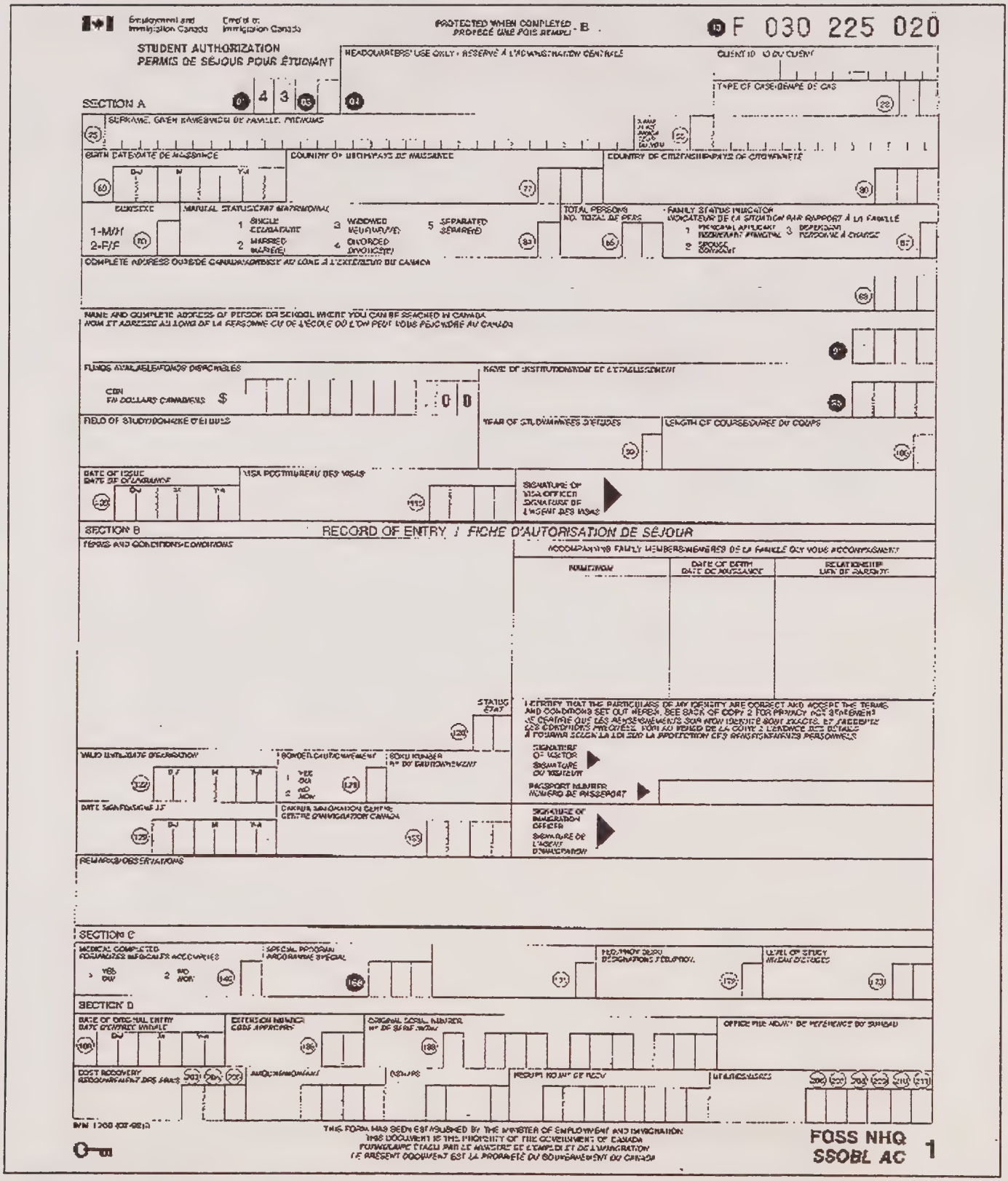
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LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA

Canada

PART / *PARTIE* 1

APPENDIX K

SAMPLE OF FORM IMM 1208 B – STUDENT AUTHORIZATION



Employment and Immigration Canada / Emploi et Immigration Canada

PROTECTED WHEN COMPLETED - B / PROTÉGÉ UNE FOIS REMPLI - B

F 030 225 020

STUDENT AUTHORIZATION
PERMIS DE SÉJOUR POUR ÉTUDIANT

HEADQUARTERS' USE ONLY - RÉSERVÉ À L'ADMINISTRATION CENTRALE

CLIENT ID / ID DU CLIENT

TYPE OF CASE/GENRE DE CAS

SECTION A

SURNAME, GIVEN NAME(S) OF FAMILY, FIRM/CO

BIRTH DATE/DATE DE NAISSANCE

COUNTRY OF BIRTH/PAYS DE NAISSANCE

COUNTRY OF CITIZENSHIP/PAYS DE CITOYENNETÉ

SEX/SEXE
1-M/H
2-F/F

MARITAL STATUS/ÉTAT MATRIMONIAL
1 SINGLE / CÉLIBATAIRE
2 MARRIED / MARIÉ(E)
3 WIDOWED / VEUF/VEUVE
4 DIVORCED / DIVORCÉ(E)
5 SEPARATED / SÉPARÉ(E)

TOTAL PERSONS NO. TOTAL DE PERS

FAMILY STATUS INDICATOR / INDICATEUR DE LA SITUATION AU SUPPORT À LA FAMILLE
1 PRINCIPAL APPLICANT / REQUÉRANT PRINCIPAL
2 SPOUSE / CONJOINT
3 DEPENDANT / PERSONNE À CHARGE

COMPLETE ADDRESS OUTSIDE CANADA/ADRESSE AU COMPLÈTE À L'EXTÉRIEUR DU CANADA

NAME AND COMPLETE ADDRESS OF PERSON OR SCHOOL WHERE YOU CAN BE REACHED IN CANADA
NOM ET ADRESSE AU COMPLÈTE DE LA PERSONNE OU DE L'ÉCOLE OÙ L'ON PEUT VOUS REJOINDRE AU CANADA

FUNDS AVAILABLE/FONDS DISPONIBLES
CDN
EN DOLLARS CANADIENS $. 0 0

NAME OF INSTITUTION/NOM DE L'ÉTABLISSEMENT

FIELD OF STUDY/DOMAINE D'ÉTUDES

YEAR OF STUDY/ANNÉES D'ÉTUDES

LENGTH OF COURSE/DURÉE DU COURS

DATE OF ISSUE
DATE DE D'ÉMISSION

VISA POST/BUREAU DES VISAS

SIGNATURE OF VISA OFFICER
SIGNATURE DE L'AGENT DES VISAS

SECTION B — RECORD OF ENTRY / FICHE D'AUTORISATION DE SÉJOUR

TERMS AND CONDITIONS/CONDITIONS

ACCOMPANYING FAMILY MEMBERS/MEMBRES DE LA FAMILLE QUI VOUS ACCOMPAGNENT

NAME/NOM	DATE OF BIRTH / DATE DE NAISSANCE	RELATIONSHIP / LIEN DE PARENTÉ

STATUS/ÉTAT

I CERTIFY THAT THE PARTICULARS OF MY IDENTITY ARE CORRECT AND ACCEPT THE TERMS AND CONDITIONS SET OUT HEREIN. SEE BACK OF COPY 2 FOR PRIVACY ACT STATEMENT
JE CERTIFIE QUE LES RENSEIGNEMENTS SUR MON IDENTITÉ SONT EXACTS, ET J'ACCEPTE LES CONDITIONS PRÉCISÉES. VOIR AU DOS DE LA COPIE 2 L'ÉNONCÉ DES DÉTAILS À FOURNIR SELON LA LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

VALID UNTIL/DATE D'EXPIRATION

BORDER CROSSING/PASSAGE DE LA FRONTIÈRE
1 YES / OUI
2 NO / NON

SOCIAL INSURANCE NO./N° DU CERTIFICAT

SIGNATURE OF VISITOR
SIGNATURE DU VISITEUR

PASSPORT NUMBER/NUMÉRO DE PASSEPORT

DATE SIGNED/DATE

CANADA IMMIGRATION CENTRE/CENTRE D'IMMIGRATION CANADA

SIGNATURE OF IMMIGRATION OFFICER
SIGNATURE DE L'AGENT D'IMMIGRATION

REMARKS/OBSERVATIONS

SECTION C

MEDICAL COMPLETED/EXAMENS MÉDICAUX ACCOMPLIS
1 YES / OUI
2 NO / NON

SPECIAL PROGRAM/PROGRAMME SPÉCIAL

PREPARATION BEFORE EMPLOYMENT/FORMATION PROFESSIONNELLE

LEVEL OF STUDY/NIVEAU D'ÉTUDES

SECTION D

DATE OF ORIGINAL ENTRY
DATE D'ENTRÉE INITIALE

EXTENSION NUMBER/CODE APPROPRIÉ

ORIGINAL SOCIAL NUMBER/N° DE SÉRIE INITIAL

OFFICE FILE NO./N° DE RÉFÉRENCE DU BUREAU

COST RECOVERY/RECOUVREMENT DES FRAIS

AUTHORIZATION/AUTORISATION

REMARKS

RECEIPT NO./N° DE REÇU

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SSOBL AC 1

IMMIGRATION

Canada

Chapter OP 13
Processing Live–in Caregivers



Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Processing Live–in Caregivers

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1. INTRODUCTION

1.1 What this chapter is about

This chapter describes the processing of applications under the Live–in Caregiver Program (LCP). It describes the initial issuance of employment authorizations abroad, procedures for issuing employment authorizations and student authorizations in Canada, the processing of applications for permanent residence in Canada and processing of dependants of live–in caregivers residing abroad.

1.2 What is a live–in caregiver

A live–in caregiver is a person who was approved at a visa office outside Canada, to participate in the Live–in Caregiver Program which became effective April 27, 1992. It includes applicants under the Foreign Domestic Program which was cancelled January 31, 1992 (see APPENDIX A and OM IS 94–10).

Live–in caregivers are given an employment authorization to provide child care, senior home support care, or care of the disabled, in a private household in Canada, in which they must reside – R2(1). At the end of two years of full–time employment in the program, they may apply for landing from within Canada.

1.3 Policy intent

This program was established to meet a labour market shortage of live–in caregivers in Canada, while providing an avenue for these individuals to work and eventually apply for permanent residence from within Canada.

1.4 Where to find information on the program

Extensive information on the Live–in Caregiver Program is found in the booklet IM–198–03–94, *The Live–in Caregiver Program –Information for employers and live–in caregivers from abroad*. The booklet can be ordered through the computerized inventory system of the department. A counselling fact sheet also forms part of this chapter as APPENDIX E.

Additional information for applicants destined to the province of Quebec is found in the provincial government booklet entitled, *Working as a Live–in Caregiver in Quebec*.

2. ISSUANCE OF EMPLOYMENT AUTHORIZATIONS – ABROAD

2.1 The application

The initial screening of all live–in caregiver applicants is done at visa offices abroad. The overseas selection process begins when the visa office receives confirmation that a Canada Employment Centre (CEC) has approved an offer of employment under the live–in caregiver program.

2.2 The validation process

Canada Employment Centres ask employers interested in hiring live–in caregivers to complete an EMP 5093, *Application for Foreign Live–In Caregiver* form.

The completed application is reviewed and if the job offer is validated, the CEC provides employers with a letter of confirmation. CEC counsellors must be satisfied that the job offer is bona fide, that there is a need established for live–in care and that a reasonable search has been carried out to identify suitably qualified and available Canadian citizens and/or permanent residents, and unemployed foreign caregivers already in Canada. They also confirm that the prospective employer has sufficient income to pay a live–in caregiver and can provide acceptable accommodation in the employer's home.

The employer is issued only one validation of offer of employment at a time, valid for a specific period. The employer must also obtain a Revenue Canada Taxation Number (RCT). Revenue Canada Taxation provides information kits to prospective employers to help them obtain a RCT and to explain the steps they must take, as employers.

If the offer of employment is rejected, the CEC counsellor issues a refusal letter to the employer.

The CEC transmits validations electronically to the visa office.

2.3 Screening the application

The visa officer sends the prospective live–in caregiver an application form for an employment authorization with instructions for completion and a list of documentation to provide.

Applicants should provide:

- proof of the equivalent of Canadian secondary school graduation;
- proof of six months training **OR** twelve months experience related to the job in question;
- proof of ability to speak, read and understand English or French to a degree which will enable the caregiver to function independently in a home setting;
- a valid and subsisting passport;
- a police certificate;

Note: When they apply for landing in Canada, applicants are required to submit a police certificate from areas of the world where they have resided, as part of their criminal background check. It is easier for applicants to obtain this document in their home country rather than later from Canada. In an effort to streamline in–Canada processing, visa

offices are asked to require applicants to provide a police certificate and to enter details into CAIPS case notes, which will be accessed by CPC Vegreville, once the live–in caregiver applies for landing.

Inability to produce a police certificate would not normally be a reason to refuse an employment authorization unless the visa officer had reasons to believe that the applicant was inadmissible on criminal grounds.

- if separated, written evidence of separation;

  ***Note:** When they apply for landing in Canada, applicants are required to have all dependants examined. An exception exists for separated or former spouses and children in the custody of the separated or former spouse.*

  Visa officers can help streamline the in–Canada landing process by entering details concerning the applicant's separated status into CAIPS case notes when the applicant applies for the initial employment authorization. These details are particularly important in countries where legal separation and divorce are not possible. When it is impossible for clients to obtain separation or divorce certificates, other evidence must be taken into account.

  The CPC in Vegreville will access the details of the applicant's separated status through CAIPS when the applicant applies for landing.

- the processing fee (see IR 5, *Immigration Cost Recovery Processing* for details).

The applicant must also provide a copy of the employer's confirmation letter to the visa office, which states the CEC system file number of the electronically transmitted validation of offer of employment.

2.4 Change of employers

A validated offer of employment is employer and job specific. Any change of employer will require a new validation and a new employment authorization. Visa officers should treat the new validation as a new application in the queue (cost recovery fees apply).

This measure is meant to deter abuse from some agencies which may want to use a list of fictitious employers. The candidates would then be in a position of having entered into a contractual agreement with an employer who does not exist or for whom they will not work.

2.5 Expired validations

If the "valid to" date expires during processing, the visa officer should contact the CEC to verify that the offer of employment is still valid.

3. ASSESSING THE APPLICATION

3.1 Eligibility criteria

Applicants who apply for an employment authorization under the Live–in Caregiver Program, must be selected within the terms of R20(1.1), whether or not they intend to eventually seek permanent residence in Canada.

Before an employment authorization is issued, live–in caregivers must meet the following three essential criteria:

a) successful completion of a course of study equivalent to Canadian secondary education;

b) six months training **OR** twelve months experience related to the job in question;

c) the ability to speak, read and understand English or French at a level sufficient to communicate effectively in an unsupervised setting.

3.2 Education

Successful completion of the equivalent of Canadian secondary education

This requirement helps to prepare live–in caregivers for the Canadian labour market, after their application for permanent residence has been accepted. The intent is to ensure that LCP applicants are able to compete in the broader labour market after they leave the caregiving field.

Given the variation in school systems, this requirement cannot be regarded as simply a matter of counting years of schooling until reaching number twelve. Equivalency of achievement is what is important.

3.2.1 How to evaluate education

Studies must have been completed in a vocational, technical, or academic stream, or any combination of these. Studies in a community college or university may also qualify.

In assessing if an applicant has successfully completed the equivalent of a Canadian secondary education, the visa officer must determine that:

a) the institution is a legitimate establishment;

Note: An educational institution, as generally understood, implies the existence of a building or buildings devoted primarily to formal education, training and development.

b) the purpose of the institution is formal education;

c) the program has a formal curriculum;

d) the examination results are successful;

e) the diploma and supporting documents are valid.

In assessing the above, the visa officer should use their knowledge of the host country's education and training system.

Note: The visa officer must not hesitate to consult other Canadian missions if the applicant was educated in a school system that is unknown to the officer.

3.2.2 Diplomas

Evidence of a valid diploma is often the quickest way to establish if the applicant has the equivalent of a Canadian secondary education. In cases where diplomas are not issued or available, the visa officer may assess

report cards and letters from the institution attesting to the person's educational achievement. In some cases it may be necessary to check with the issuing authority to confirm that documents are genuine.

Note: Applicants who provide false transcripts will be refused under A9(3) (see the sample refusal letter at APPENDIX B, ANNEX 4).

3.3 Six months training

Successful completion of six months full–time classroom training in a field or occupation related to the job in question.

Applicants must meet either the training **OR** the experience requirement (see the section on experience below). The training criterion allows for applicants who are well qualified through their education but may not have experience.

Example: A recent "nanny" type school graduate who has completed a lengthy course, but does not yet have practical work experience, could be a good live–in caregiver.

Training must have been completed as part of formal education taken at an institution accredited by local educational authorities. The total number of hours taken must equal or exceed the equivalent of six months full time training.

If a host government has sanctioned a training program for governesses, caregivers for the elderly or jobs of a similar nature, then it is likely to satisfy the LCP criteria.

Note: Correspondence courses do not meet the training requirement and non–classroom training does not qualify as it is covered under the experience criterion.

3.3.1 How to evaluate training

In assessing if an applicant has completed the equivalent of six months of related training, the visa officer must determine that:

a) the transcripts of individual courses within the degree/diploma program include six months related to caregiving;

b) training has been completed in a classroom setting and does not include activity assignments. The intent is that hours spent working cannot be credited as hours spent training;

c) courses relate directly to the job being offered.

3.4 Twelve months experience

Completion of one year of full–time paid employment, including at least six months of continuous employment with one employer, in that field or occupation, within the three years immediately prior to the day on which the person submits an application for an employment authorization to a visa officer.

Applicants who cannot meet the 6–month training requirement must meet the 12–month experience criterion.

Note: The experience provision allows the visa officer to consider highly experienced applicants who have no formal training.

The applicant must have six months continuous experience with the same employer. This disqualifies persons who frequently change employers due to poor performance or attitude.

The experience must also be within the past three years immediately prior to the day on which the person submits an application for an employment authorization.

Caregiving experience in an institutional setting (daycare, creche, hospital, senior citizens home) may also be considered as meeting the experience requirement. The caregiving experience must be relevant to the employment offer.

3.4.1 Employment in own home

Caregiving experience in the applicant's own home would not normally qualify someone for the program as the applicant will not have been in a paid employment situation. However, there may be legitimate situations where the applicant was employed as a live–in caregiver by a relative.

Applicants are responsible for satisfying the visa officer that they were actually paid for work performed.

3.5 Language

Ability to speak, read and understand either the English or French language at a level sufficient to communicate effectively in an unsupervised situation as required in the definition of a live–in caregiver.

Live–in caregivers must work independently in the home of their employer and they must be able to respond to emergency situations by contacting a doctor, ambulance, police or fire department, answer the telephone or door and administer medication. For the protection of the persons in their care, they must be able to carry out the duties of the job in English or French.

In addition, live–in caregivers who are able to speak, understand and read one of Canada's official languages should not be dependant on their employer to interpret employment standards and should be better equipped to seek outside assistance in the event of personal difficulties.

Unless there is evidence of language ability in French or English (eg: education in French or English), the visa officer should interview applicants and document carefully how language ability was assessed and for negative assessments why it was considered inadequate.

3.6 Statutory requirements

In addition to meeting the definition of live–in caregiver – R2(1), and the eligibility requirements of R20(1.1), the following requirements must also be met before issuing an employment authorization:

- mandatory medical examination for all live–in caregivers;
- a security check for applicants from certain countries (see IC 1, *Security and Criminal Screening of Immigrants*);
- although not mandatory, a police certificate from all areas where the applicant has resided;
- compliance with normal visitor requirements.

Note: Since LCP participants are allowed by regulation to apply for permanent residence after two years of employment in Canada, it is difficult to apply the normal visitor requirement of temporary entry. In assessing visitor bona fides, visa officers should simply satisfy themselves that the applicant has the intention of leaving Canada, should the application for landing be refused. The question is not so much whether the applicant will be an immigrant, but whether the person will be an illegal immigrant to Canada.

3.7 Applicants destined to Quebec

Under the Canada–Quebec Accord, Quebec's consent is required in order to admit live–in caregivers as temporary workers. Therefore a *Certificat d'acceptation du Québec* (CAQ) is required before issuing an employment authorization. The Ministère des Affaires internationales, de l'Immigration et des Communautés culturelles du Quebec (MAIICC) issues a CAQ only after both the employer and employee have signed the Live–in Caregiver Work Contract.

When an applicant has obtained a CAQ but does not meet federal requirements, the federal regulations take precedence. These applicants should be refused. Issuance of a CAQ under the federal Live–in Caregiver Program, does not automatically guarantee an employment authorization.

3.8 Employment by diplomatic personnel

Individuals employed by diplomatic personnel may seek to enter Canada as selected temporary workers either as Live–in Caregiver Program participants on employment authorizations, or as members of the diplomat's personal suite on official status (see chapter OP 11).

Only those who obtain employment authorizations as live–in caregivers and work full–time as live–in caregivers for two years in Canada have the possibility of being landed in Canada under the LCP program. **Consequently, those who enter Canada on official status as part of the personal suite of a diplomat or foreign official will not be eligible for landing under the program.**

Diplomatic personnel who are interested in having their live–in caregiver enter and remain in Canada under the Live–in Caregiver Program, must provide an *employer–employee agreement* and send a Diplomatic Note from their Mission to the Office of Protocol, Department of Foreign Affairs and International Trade, stating they will fulfil all of the requirements and conditions of the agreement, where the application is processed under the LCP.

Diplomatic personnel will then provide the CEC with a copy of this note, the *employer–employee agreement* and the response of the Office of Protocol. The offer of employment will be validated and the employer informed in writing. The validation is communicated to the visa office, where the application is processed under the LCP standards.

3.9 Nannies and the student general working holiday program (SGWHP)

The visa officer may issue an employment authorization under the Student General Working Holiday Program to persons who will be working in nanny–like jobs and who meet the requirements of the SGWHP. Applicants must be assessed against the criteria of the program under which they apply.

Applicants are not eligible to apply for permanent residence in Canada under the LCP, and the authorization cannot be extended beyond the one year period.

3.10 Dependants who wish to accompany

It is expected that live–in caregivers will not be accompanied by dependants. Although, there may be evidence that the employer is aware of the applicant's circumstances and that the employer agrees to a dependant member of the applicant's family residing in the employer's home, there are no guarantees that any subsequent employer would agree to the same terms.

Live–in caregivers who wish to bring their children should be given the reasons why this is not possible. Visitor visas should not be issued to these children, but the live–in caregiver applicant may be approved.

4. THE DECISION

4.1 Issuing the employment authorization

When all requirements are met, the employment authorization is issued valid for one year, for a specific job and a specific employer.

While HRDC uses NOC code 6474 to identify employment validations under the live–in caregiver program, CIC will continue to use 9998–961 (a 7 digit synthetic immigration code), on LCP employment authorizations and landing documents, for policy analysis.

The code "LCP" should also be entered in the special program box of the employment authorization.

4.2 Refusals

Decisions must be documented and based on the requirements of the Act and Regulations. Case notes should indicate how the assessment was conducted, what documents were considered, and which criteria the applicant failed to meet. A refusal letter must be sent to the applicant (APPENDIX B – ANNEXES 1 to 4).

4.3 Counselling material

Live–in caregivers should be given the booklet "The Live–in Caregiver Program" (IM–198–03–94), a listing of labour standards contacts (APPENDIX C), live–in caregiver contacts (APPENDIX D), and the counselling fact sheet "Important Information for Live–in Caregivers (APPENDIX E).

5. ISSUANCE OF EMPLOYMENT/STUDENT AUTHORIZATIONS – IN CANADA

5.1 Employment authorization

This section explains how to process requests for extensions of employment authorizations, from within Canada.

5.2 Employment validation requirements

There is no need for a new validation if the caregiver continues to work for the same employer. A letter from the employer stating that the live–in caregiver will continue to be employed full time for another year is sufficient.

The applicant does not require a release letter from the previous employer to change employment. The applicant must provide a copy of the CEC's letter, confirming the validation of the new offer of employment along with the application for a new employment authorization.

5.3 Live–in requirement

An employment authorization should not be extended if the applicant has not been complying with the "live–in" requirement.

Applicants who leave live–in caregiving work and take employment as live–out workers are automatically disqualified from continuing in the program. Applicants who have not complied with the "live–in" requirement cannot be granted permanent residence as they would not qualify as members of the live–in caregiver class.

The immigration officer should carefully assess the bona fides of applicants who have disqualified themselves from the program before extending their visitor status in Canada. Refer to IP 6, *Processing Visitor Extension* for additional guidance.

5.4 Issuing the employment authorization

Employment authorizations are issued for one year at a time. The Live–in Caregiver program code "LCP" should be inserted in the special program box.

The immigration officer should include in the remarks portion of the employment authorization, the following: "No objection to part–time, non–credit, special interest courses".

> *Note: This will facilitate the person's enrollment in part–time, non–credit, special interest studies that are exempt from student authorizations under R17(1)(d).*

5.5 Duration of employment authorization

The total duration of employment authorizations should not exceed three years. By regulation, participants need to complete two years of full–time employment before they can be considered for permanent residence, and the three–year period gives them flexibility to compensate for periods of unemployment, illness, vacation or maternity leave.

5.6 Interim employment authorization

When live–in caregivers are between jobs and have not yet found a new employer, a "bridge extension" will be granted if their employment authorization is about to expire. The extension will be given for a maximum duration of two months and will be issued under the previous employer. The remarks portion should indicate that it is a "bridge extension". Usual cost recovery applies.

In the event that the bridge extension expires before a new employer is found, each case must be evaluated individually. Circumstances must be assessed to determine the reason that a new employer has not been found. It may be necessary to transfer the file to an inland office if closer examination is warranted.

5.7 Refusing the employment authorization

When it is necessary to refuse an employment authorization, the reasons for refusal should be well documented and provided to the applicant. Under the LCP, refusal of an employment authorization means that the person is disqualified from applying for landing in Canada.

Since refusal of the employment authorization normally coincides with requests for extensions of visitor status, the immigration officer should carefully assess the person's bona fides as a visitor in Canada where an employment authorization is refused.

Do applicants have the intention of leaving Canada? Are they able to support themselves? If it appears that the person may not leave Canada, or has no means of support, or in some other way no longer qualifies for visitor status (i.e. worked without authorization), the request for an extension of visitor status should be refused (refer to IP 6, *Processing Visitor Extension* for additional guidance).

6. STUDENT AUTHORIZATION

6.1 Part–time studies

Live–in caregivers who wish to pursue academic or professional courses, require a student authorization. These may be issued under R16(b), which allows temporary workers to study provided the taking of courses is incidental and secondary to the main purpose of the applicant's presence in Canada, which is to work as a live–in caregiver.

Enter the code "LCP" in the special program box of student authorizations.

7. APPLICATION FOR PERMANENT RESIDENCE IN CANADA

Participants in the Live–in Caregiver Program can apply for permanent residence after they have worked for two years in the program. They must first meet the requirements of the Live–in Caregivers Class to apply for landing, and then meet the landing requirements for that class. This section explains how to process applications for landing made by members of the live–in caregivers in Canada class.

7.1 Steps in processing the application

The main steps in processing an inland application for landing made by a member of the live–in caregiver in Canada class are:

a) sending a letter to the applicant along with their employment authorization extension, advising them when they will be eligible to apply for permanent residence and how to request the "application for landing" kit;

b) providing information on the requirements which they must meet;

c) receiving and screening the application;

d) determining the membership in the live–in caregivers in Canada class;

e) referring to Overseas Health Programs (OHP), medical cases that were originally assessed as M3. (A new examination is not required for M1 or M2 cases.)

f) initiating medical, criminal, security and any other examination to determine if the member meets the landing requirements of the class;

g) issuing interim documentation;

h) providing appropriate counselling to both approved and refused live–in caregivers;

i) recording the decision in FOSS;

j) providing feedback to refused live–in caregivers if necessary; and

k) landing those members of live–in caregivers in Canada class who meet the landing requirements of the class;

7.2 The application

Before it can be determined whether live–in caregivers meet the criteria for their class, and eventually meet landing requirements, information and documentation found in a completed application for landing is needed. This section describes how applications for permanent residence from live–in caregivers are screened.

7.3 Assessing the application

Immigration officers determine whether or not a person who is a member of the live–in caregivers in Canada class, is eligible to apply and meets the landing requirements for this class. The regulatory basis for this is found in R11.3(c) which states that members of this class must have submitted an application for landing to an immigration officer.

Live–in caregivers must provide enough information to let the immigration officer decide the following:

a) determine whether the live–in caregiver is eligible to have an application processed in Canada;

b) determine if the live–in caregiver meets landing requirements;

c) refer the live–in caregiver and dependants in Canada and abroad, for an examination concerning admissibility under A19.

7.4 How do clients submit an application

Live–in caregivers in Canada apply for landing by completing an IMM 5001, *In Canada Application for Landing* and an IMM 5284, *Supplementary Information/Live–in Caregivers*. The forms and a guidebook are contained in the Application Kit for live–in caregivers.

Applicants send completed forms to the Case Processing Centre (CPC) in Vegreville, to be processed.

7.5 Date of the application

Applications are considered to be made on the day the application and the correct processing fees are received at the CPC. Applications that are returned to the client do not constitute an official application.

7.6 Screening the application for completeness

Applications and the supporting documentation must be reviewed to verify:

- proper completion of the application (IMM 5001) and supplementary form (IMM 5284). The immigration officer must ensure the applicant has signed the application.

The following documentation must also be enclosed:

- 2 passport–size photographs of each family member in Canada (in addition to the photographs of the principal applicant); and
- a photocopy of the applicant's identification documents;
- photocopies of documentation supporting evidence of two–year employment;
- the applicable processing fees.

7.7 What to do if the application is incomplete

If the application does not include the required documents/fees, is not completed properly or is unsigned, enter in FOSS the date the application was made and the reason for the return. Send the entire package back to the client with a letter explaining the reason for the return.

7.8 Tracking of the application

The Field Operational Support System (FOSS) tracks processing of applications for permanent residence made by members of the Live–in Caregiver class, through the Case Processing Support (CPS) module. Applications must be entered in the CPS module when they arrive at the CPC.

Names of dependants residing abroad are also entered in the remarks section and the Y (yes) or N (no) box completed, when the visa office provides results of overseas examination (see section D – Processing dependants).

The "approved in principle" field should indicate the case has or has not been provisionally approved at the time the eligibility decision is made.

When the "eligibility requirements listed under section 9 have been met, the results and the date received should be entered into the CPS module.

Once all requirements have been met, the landing information will be entered into the CPS module by officers at the CPC. The office of issue will be entered as the closest inland office to where the client lives.

The inland office will, according to local procedures, print landing documents on a regular basis and send a call–in notice or letter to the client advising of the time to attend for landing.

8. FEES

Principal applicants in Canada will normally pay processing and right of landing (ROLF) fees for all accompanying dependants whether in Canada or abroad.

The CPC will clearly indicate that these fees have been paid in Canada before forwarding the forms to the responsible visa office.

There are no processing nor right of landing (ROLF) fees charged, for dependants for whom landing is not sought. Please refer to Immigration Cost Recovery Processing (IR 5) for additional information.

If an application is not accompanied by the correct cost recovery fee, the kit must be returned to the applicant, with a letter requesting payment.

8.1 Forms of payment

Postal or money orders, traveller's cheques, certified cheques and Visa and Mastercard are acceptable forms of payment. Personal cheques are acceptable only for processing of the application for landing. Certified cheques, money orders, and traveller's cheques are to be made payable to the Receiver General for Canada.

9. ELIGIBILITY REQUIREMENTS

Approval–in–principle can be granted to live–in caregivers who are eligible to apply for permanent residence.

9.1 Who is eligible for processing

To be able to apply for landing, the LCP applicant must first meet the requirements described in the definition of member of the live–in caregivers in Canada class (R2(1):

a) have previously submitted an application for an employment authorization as a live–in caregiver to a visa office;

b) be in possession of a valid and subsisting employment authorization to work as a **live–in** caregiver;

c) have resided in their employer's home. Persons who have lived outside the home listed on their employment authorization are considered as no longer having a valid and subsisting employment authorization to work as a live–in caregiver;

d) have completed a total of two years of full–time employment in Canada as a **live–in** caregiver within three years after being admitted to Canada. The calculation of the two year employment does not include any time away from Canada or any period of unemployment (ie. vacations in excess of two weeks, unemployment, part time work, sickness or maternity leave);

e) have proof of two–year work record, completed within three years after entry to Canada (refer to section 9.2 below);

f) not be, or his/her dependants are not, the subject of an inquiry under the Act or of an appeal or application for judicial review following an inquiry under the Act. FOSS should be verified for any record of a direction against the applicant or dependants;

HELP: The "subject of an inquiry" means that the applicant or her/his dependants have been reported and directed to inquiry.

THE ANSWERS TO THE STATUTORY QUESTIONS ON THE IMM 5001, SHOULD BE CHECKED and FOSS verified for any record of a direction against the applicant or dependants.

Example: A live–in caregiver is not eligible to apply for landing if her spouse is a refugee claimant at inquiry or who has appealed the decision or sought judicial review.

9.2 Acceptable evidence of two–year employment

The Immigration officer must be satisfied with the evidence presented, which can be the following documents:

a) Statement of earnings explaining hours worked and deductions made on the employee's salary by the employer;

b) Record of wages and deductions sent to Revenue Canada (T forms);

c) Record of Employment (ROE). Applicants should have a Record of Employment for each of their **previous** jobs as live–in caregivers. So for those employees who are still with the same employer, obtaining a

ROE is impossible. Under the Unemployment Insurance regulations, an employer must complete a ROE every time an employee has an interruption of earnings, (this may be due to termination of the contract for any reason or because the worker is ill or injured). If the applicant has trouble obtaining the ROE, the local Canada Employment Centre may assist in obtaining the document from reluctant employers;

d) Statutory declaration from the applicant stating the terms and conditions of their most recent employment where the applicant has not changed employers and any of the documents mentioned above are not yet available. The statutory declaration should only be accepted if every reasonable effort has been made to obtain the other mentioned documents.

Periods of unemployment are not counted in the two years. However, two weeks of vacation leave, as outlined in the provincial and territorial employment standards legislation, will not be discounted.

Note: For additional information on vacation leave, applicants can refer to the fact sheet of Employment Standards Legislation (see APPENDIX F).

Live–in caregivers have the right to be covered under Workers' Compensation according to provincial and territorial laws. However, this period of unemployment will not be included in the two–year work record required for live–in caregivers.

9.3 Live–in requirement

There is no discretion for applicants when they apply for permanent residence under the LCP, they must meet the "live–in" requirement. The live–in component is important to the program, as there are sufficient numbers of Canadians who are willing to work as caregivers in a live–out situation.

9.4 Pending charges

Where the Immigration officer has reasonable grounds to believe that a member of the live–in caregivers in Canada class or a dependant of that member has committed, in Canada, an offence referred to in A19(1)(c), or A19(2)(a), A19(2)(b)(i) or A27(1)(d), he/she is not required to make a determination respecting the member's application for landing.

Processing may be delayed for one year while the matter is under police investigation. If the police decides not to lay charges, processing will continue. If charges are laid, the delay may continue until the court finally disposes of them. If the LCP applicant is found guilty of the charges, the appropriate report under A27(2) will be made.

Similarly, where reasonable grounds exist to believe that a member of the live–in caregivers in Canada class or a dependant of that member has committed abroad, an offence referred to in A19(1)(c.1), A19(1)(c.2), A19(2)(a.1), the application may be refused. Reliable and releasable information will be required to show that a person named in the application falls under these sections. The same will be required where the applicant may have committed a crime. Unsupported suspicion will not be enough.

The Immigration officer is not expected to arbitrate disputes between applicants and presumed accusers. For example, newspaper clippings, anonymous letters or oral comments will generate suspicion that may

require more reliable substantiation, perhaps from a jurisdiction that has authority to conduct an investigation for the purpose of laying criminal charges. An official confirmation by the authorities that an individual is under investigation or a copy of the charges will also provide "reasonable grounds".

Only live–in caregivers who do not meet the definition of the class found in R2(1) are ineligible to apply for landing. Those who have been charged with a criminal offence, or where there are reasonable grounds to believe may be charged, are eligible to apply, but may not be landed until the charges have been disposed of.

9.5 Application in the province of Quebec

The Canada–Quebec Accord gives Quebec legal authority to select independent immigrants such as live–in caregivers. Participants require Quebec's approval after completing two years of full–time work in the program in order to be granted permanent residence in that province.

If the applicant lives in Quebec, a copy of the application for landing (IMM 5001) and a covering letter must be sent to the Ministère des Affaires internationales, de l'Immigration et des Communautés culturelles (MAIICC), since Quebec applies its own criteria in evaluating applicants for permanent residence. If an applicant is accepted by Quebec for permanent residence, Quebec issues a "Certificat de sélection du Québec" (CSQ).

If applicants are refused by Quebec, the CPC will inform them that they are free to apply for permanent residence in another province. Once they inform the CPC of their new destination, processing of their application will continue.

> *Note: It would be unfair and legally unfounded to remove these applicants from Canada if they meet federal LCP landing requirements as specified in R11(3).*

9.6 Letter to eligible applicants

Eligible applicants should be sent a letter informing them that their application has been "Approved–in–Principle" and, to request any additional information.

9.7 Employment authorizations

Live–in caregivers who have been approved–in–principle are eligible to apply for an open employment authorization, pursuant to R19(4)(o). They are validation exempt under R20(5)(a). The validation exempt code is A01.

R19(4)(o) also allows issuance of an employment authorization to dependants of the live–in caregiver who are in Canada on the day the LCP becomes a member of the class.

9.8 Interviewing ineligible applicants

In all cases of potential refusal, the CPC will send the application to the applicable inland office for review.

The inland office may need to interview the applicant to explain the reasons for the refusal and to counsel the client regarding his/her status in Canada.

In all cases of refusal, the applicant must be informed in writing of the decision (see APPENDIX G).

10. THE DECISION

10.1 Landing requirements

The Immigration officer will review eligible applications and supporting documentation to determine if the live–in caregiver appears to meet the landing requirements for this class – R11.3. These are:

a) the applicant was not admitted to Canada by reason of any misrepresentation of the education, training and/or experience requirements for issuance of an employment authorization, whether the misrepresentation was made by the member or **by another person**;

HELP: Requirements for issuing an employment authorization to a Live–in caregiver are found in R20(1.1)(a) and (b). A visa officer will have reviewed documents relating to the applicant's education, experience and training. However, subsequent information may come to light invalidating the initial verification.

b) the applicant and dependants must not be described in any section of A19 as determined by an immigration officer pursuant to A6(8).

HELP: Applicants and all dependants must undergo and pass medical, criminal and security checks. They cannot be landed if they or any of their dependants are inadmissible.

c) the applicant must have submitted an application for landing and the correct fees to an immigration officer; and

d) where the live–in caregiver or a dependant was the subject of an inquiry under the Act, a conditional removal order or removal order must not have been made or, if made, must have been quashed.

HELP: The "subject of an inquiry" means that the applicant or her/his dependants have been reported and directed to inquiry. This landing requirement is the same as the eligibility criteria found in the R2(1) definition of member of the live–in caregiver in Canada class. If removal is effected, this impediment for landing is lifted. However, the visa office will have to examine the "removed" dependant.

To satisfy this landing requirement, the Immigration officer should verify FOSS for any record of a direction for inquiry, against the applicant or dependants just before landing the Live–in caregiver.

10.2 Background/criminal checks

Instructions for initiating criminal and background checks are found in IC 1, *Security and Criminal Screening of Immigrants*. Live–in caregivers should be provided with the address of the authority in their home country responsible for providing police certificates (refer to IC 1).

Note: Before requesting a police certificate, the Immigration officer must verify CAIPS case notes. The visa offices in Manila, Kingston and Port of Spain have required live–in caregivers to produce police certificates before issuing employment authorizations under the Live–in caregiver in Canada program. Applicants who presented a police certificate to the visa office need not obtain a new certificate.

10.3 Medical examination

Live–in caregivers should have passed immigration medical examinations, when they applied for their employment authorization, prior to their arrival in Canada. They do not need a new examination if they were originally assessed as M1 or M2. For M3 cases, referral to Overseas Health Programs (OHP) is required (refer to OM IS 95–18).

Live–in caregivers and their dependants in Canada and abroad may not be landed if they do not meet normal medical requirements.

10.4 Dependants who are not subject to examination

The applicant's separated spouse and children in the custody or guardianship of a former or separated spouse need not undergo examination. Until regulatory amendments can be made for A6(5) classes of immigrant, the immigration officer may use the authority and wording found in R6(5) which relate to members of the family class.

It is important to distinguish between "separated" spouses and "uncooperative" spouses. Spouses of a participant need not undergo examination if there has been a marital breakdown, i.e. they are "separated" spouses. All other spouses must undergo examination, without which the live–in caregiver's application for landing in Canada may have to be refused (see section 11.8 for details).

10.4.1 Separated spouses

To consider that a spouse is "separated" and thus exempt from examination, written evidence must be presented that the applicant and their spouse are no longer cohabitating and that their marriage has broken down. Ideally, written evidence should be in the form of a formal separation agreement or letter from a lawyer showing that divorce proceedings are underway.

In countries such as the Philippines where legal separation and divorce are not possible, a statutory declaration may be considered as "written evidence" of separation, provided the immigration officer is satisfied that the marriage has in fact broken down.

In order to be satisfied, the immigration officer may:

- take into account supporting evidence presented by the applicant, e.g. evidence that the applicant's separated spouse has had children with a new partner or income tax returns showing the applicant's status as separated;
- review CAIPS file notes; the visa office may have confirmed the marital status of the applicant when the initial employment authorization was issued; and/or
- ask the visa office to confirm or discredit the statutory declaration or other information provided by the applicant, that they are separated from their spouse.

10.4.2 Children in the custody of the other parent

In order to be exempt from examination, the child must be in the legal custody or guardianship of the separated or former spouse. It is not sufficient for the applicant to present written evidence such as a statutory declaration. If legal evidence of custody or guardianship is not presented, the child must undergo a medical examination before the live–in caregiver's application can be approved.

10.4.3 Exclusion from the family class

R4(2) disallows future sponsorship of a spouse or child who has not been examined for admissibility under A19. Should the live–in caregiver applicant later attempt to sponsor a separated spouse or child who was in the custody or guardianship of the other parent, the spouse or child would be ineligible as they are no longer members of the family class.

11. PROCESSING DEPENDANTS IN CANADA AND ABROAD

11.1 Parallel processing for dependants

Applicants for landing have a choice of requesting parallel processing for all, or some of their dependants, residing in Canada or abroad. Those who are processed concurrently at a visa office may be issued immigrant visas. Dependants who are not processed concurrently may be sponsored as members of the family class once the live–in caregiver is landed in Canada, and must meet all applicable requirements at that time.

The requirements to be met by dependants of live–in caregivers are listed in R11.3(b) and (d). R11.3(b) states that dependants must meet all the admissibility requirements set out in A19. R11.3(d) requires that where dependants were the subject of an inquiry under the Act, a conditional removal order or removal order must not have been made or, if such an order was made, it must have been quashed.

11.2 Requirements for the case processing centre

Live–in caregivers must name all their dependants on the application for landing, regardless of where they live, so the dependants can be assessed against the landing requirements found in R11.3. The IMM 5284, *Supplementary Information –Live in Caregiver* form must also identify which dependants are seeking landing and which are listed **only** for the purpose of examination.

For a dependant residing abroad, the immigration officer must inform the responsible visa office by forwarding:

- a copy of the IMM 5284, *Supplementary Information – Live–in Caregiver* form, which provides personal details of dependants and their address overseas. It also states which dependants are considered for concurrent processing;
- the live–in caregiver's complete address and telephone number in Canada;
- confirmation that all fees have been paid for dependants who are the subject of concurrent processing.

11.3 Requirements for the visa office

Upon notification that a principal applicant has dependants residing abroad, the visa office will:

- forward an IMM 8, *Application for permanent residence in Canada* to dependants with a time limit by which they must respond;
- open an LC2 file in all cases, whether or not the dependants are undergoing concurrent processing;
- confirm identity and determine relationship of dependants;
- show the case as "passed" at the paper screening and selection stage, whether or not dependants are being processed concurrently;
- show whether or not processing and right of landing fee have been paid;

  Note: *The codes "FPC" and "LFC" should be entered if the principal applicant has paid the processing and right of landing fees in Canada.*

- insert the exemption code "999" for dependants who are not processed concurrently and "LFN" to show that they are exempt from paying the right of landing fee. An explanation should also be included in the remarks box (ie: LC2 not applying for permanent residence);
- initiate medical and background examinations.

11.4 Quebec cases

A "certificat de sélection du Quebec" (CSQ) is required for the live–in caregiver and all accompanying dependants who are to reside in the province of Québec.

The visa officer requests issuance of a CSQ for accompanying dependants by contacting the responsible SIQ office with a list of the accompanying dependants abroad. The list should contain the name and date of birth of the accompanying dependants and of the principal applicant including his or her CPC client ID number.

> ***Note:*** *The visa officer should inform NHQ/Selection Branch if there are any problems with issuance of the CSQ.*
>
> *The visa officer should not request non–accompanying dependants to complete a "demande de certificat de sélection" (DCS).*

11.5 Dependants who do not comply

If dependants do not return a completed IMM 8 or do not provide documentation as requested within the stated time limit, the visa officer has specific instructions to follow up with the dependants, with a copy to the principal applicant in Canada (and a copy to CPC Vegreville if the visa office is not using CAIPS). The visa officer may try to contact the principal applicant, at anytime during this process.

The letter will state that if documentation is not provided within a certain period of time (as appropriate), the file will be closed and the applicant in Canada could be refused (see section 11.8 for details).

11.6 Contacting dependants

The visa officer will try to contact dependants residing abroad directly or by enlisting the live–in caregiver applicant's assistance. The Immigration officer's assistance in contacting overseas dependants should be limited only to exceptional situations. A valid, complete and up–to–date mailing address for all dependants is required A telephone number would also be very useful.

The CPC will inform the visa office whenever it receives a change of address for live–in caregivers whose dependants are being processed abroad.

11.7 Finalizing approved cases

After identity, relationship and statutory requirements have all been met, the visa officer provides the CPC with the results of statutory checks, their period of validity and the visa office file number for both accompanying and non–accompanying dependants. *The results can be communicated by facsimile, at (403) 632–8100 or (403) 632–8101. All E–Mail messages are to be addressed to the attention of Client Services. Do not send telegrams (see OM IS 94–29).*

The visa office file for accompanying dependants will be left open until the landing CIC confirms that the live–in caregiver applicant has been landed.

If the dependants are non–accompanying, the visa officer shows the case file disposition as "withdrawn", inserts a note in CAIPS e.g. "LC2 dependant did not seek permanent residence", and informs the CPC of examination results.

Immigrant visas are **NOT** to be issued to non–accompanying dependants. These dependants can be sponsored as Members of the Family Class at a later date and must meet all requirements applicable at that time.

11.8 Finalizing refused cases

The visa office informs the CPC of negative results for accompanying and non–accompanying dependants. It also informs the CPC if dependants have not undergone examination within the allocated period of time or could not be located (see section 11.5).

The visa office shows the final disposition of its LC 2 file as "refused" for accompanying dependants and as "withdrawn" for non–accompanying dependants. However, it does not inform dependants of the final disposition of the case.

The CPC informs the applicant regarding the status of their case. Additional time may be allowed for response. The CPC will then transfer the file to the applicable inland office for refusal. The refusal letter to the live–in caregiver applicant, will state that both the applicant and all dependants, in Canada or abroad, are refused. If a dependant is inadmissible, the principal applicant and dependants cannot be landed.

Applicants who still have valid status will be informed in writing, that their status and employment authorization may not be extended and that they should leave Canada (see section 5.7).

In cases where the basis for refusal is that the applicant's spouse or dependent children did not undergo medical and background checks, the immigration officer must verify the application to ensure that:

- the applicant's spouse was indeed subject to examination, i.e. was not a separated spouse or child in the custody of the other parent (see section 10.4); and
- the visa office did inform the applicant that the dependant's lack of cooperation in undergoing medical and background checks could result in refusal of the live–in caregiver's application for landing in Canada (see section 11.5). The CPC can verify that reminder letters were sent by reviewing case file notes in CAIPS.

  Note: Procedural fairness requires that the applicant be aware of factors which may contribute to a negative decision and be afforded the opportunity to respond.

11.9 Ineligible dependants

When the visa office determines that listed dependants are not dependants, e.g. because they are not full–time students, or that they are dependants, but not subject to examination, e.g. separated spouses, the following must be done.

The visa officer will:

- inform the CPC of its findings;
- inform these ineligible or separated dependants to ignore any previous requests from the visa office to undergo examination or provide documentation; and

- close the LC2 file by showing it as "withdrawn" and entering in CAIPS case notes the reason why the dependant was found ineligible or not subject to examination.

The CPC will:

- inform live–in caregiver applicants that the ineligible or separated dependant cannot be part of the application;
- finalize processing of the application minus the ineligible persons.

> ***Note:*** *When a visa office has informed the CPC that a dependant is ineligible, the CPC should contact applicants, explain the situation, and allow the applicant an opportunity to either provide additional information within a stated pre–determined time or to apply for a refund of ROLF, if the fee was paid for a dependant over 19 years of age.*

At the end of a pre–determined period of time, the CPC should release the IMM 1000, *Record of Landing* for the applicant and eligible dependants only. It is not necessary for applicants to delete ineligible dependants from their application, only that they be afforded an opportunity to provide evidence to the contrary.

12. LANDING/VISA ISSUANCE

12.1 Landing the live–in caregiver

Upon notification that accompanying or non–accompanying dependants meet applicable requirements, the CPC inputs the landing information into FOSS, retains the file and sends the electronic IMM 1000 to the inland office. In the visible remarks, the CPC will provide the names and details of accompanying dependants residing abroad, the visa office and file number. The IMM 1000 should also include the Program code "LCP" and the immigrant category "LCI". Accurate coding is very important for policy and program monitoring purposes.

The inland office prints the IMM 1000, *Immigrant Record of Landing* and grants landing to the live–in caregiver applicant and dependants, in Canada.

The landing office then informs the visa office, by E–mail or facsimile, that landing has occurred.

12.2 Issuing visas to accompanying dependants

Upon notification that the principal applicant has been landed in Canada, the visa office verifies that the dependants underwent parallel processing as accompanying dependants. The case is then shown as "approved" and the visa office issues immigrant visas to accompanying dependants provided medical and background checks are still valid.

13. RESPONDING TO REPRESENTATIONS

The *Privacy Act* requires that information concerning clients must be released only to the client or the client's designated representative who are Canadian citizens or permanent residents of Canada. Prior to responding to a representation, be sure that clients or their representative verify their identity. This applies if the representation is made in person or by mail.

The decisions on an application for permanent residence made by live–in caregivers are objective and straightforward. The Immigration regulations do not allow for discretion in determining eligibility to apply for and admissibility to receive permanent residence. When representations do occur, respond to them by reiterating the grounds of ineligibility or inadmissibility.

APPENDIX A
FOREIGN DOMESTIC MOVEMENT

The Foreign Domestic Movement (FDM) program closed on January 30, 1992 and a twelve–week moratorium was announced, while the FDM was under review (IS94–10). Applications received by a visa office on or before January 30, 1992, were assessed under the FDM eligibility criteria. Applications received after April 27, 1992 were assessed under the LCP criteria. All program participants in the FDM program in Canada remained eligible to apply for permanent residence, but were no longer assessed according to FDM guidelines which included skills upgrading and the potential for successful establishment.

As the FDM program closed more than three years ago, if an inventory still exists, it should be relatively small.

Effective dates:

Applications received on or before January 30, 1992	FDM applies
Applications received between January 31,1992 and April 26, 1992	FDM program closed
Applications received on and after April 27, 1992	LCP applies
Applications received on and after March 16, 1994 applies	Changed LCP criteria

APPENDIX B – ANNEX 1
REFUSAL LETTER – OVERSEAS APPLICANT DOES NOT MEET REQUIREMENTS OF THE PROGRAM

Dear client:

This refers to your application for temporary employment in Canada as a live–in caregiver.

I regret to inform you that we are unable to approve your application as you do not meet the requirements of the Live–in Caregiver Program as set out in Section 20.(1.1) of the *Immigration Regulations*, which states that :

20.(1.1) An immigration officer shall not issue an employment authorization to a person who seeks admission as a live–in caregiver unless all of the following requirements have been met:

d) successful completion of a course of study that is the equivalent of Canadian secondary school;

e) successful completion of six months of full–time training related to the employment for which the authorization is sought, in a classroom setting, as part of a course of study referred in paragraph (a) or otherwise; OR

   completion of one year of full–time paid employment including at least six months of continuous employment with the same employer, in that field or occupation within the three years immediately prior to the day on which the person submits an application.

f) ability to speak, read and understand either the English or French language at a level sufficient to communicate effectively in a unsupervised situation as required in the definition of live–in caregiver.

Specifically, in the opinion of the assessing visa officer, you are unable to meet the requirements of section 20.(1.1)(**insert**) of the *Immigration Regulations*.

As you are unable to fulfil the requirements of the program, I am obliged to refuse your application. Please inform your employer in Canada of this decision. While I regret that the decision could not be more favourable, I would like to thank you for your interest in Canada.

You should disregard any previous instructions that may have been sent to you from this office.

Yours sincerely,

Counsellor (Immigration)

cc: CEC : (include name of employer)
W–10M (06/95)

APPENDIX B – ANNEX 2
SAMPLE REFUSAL LETTER – OVERSEAS WITHDRAWAL OF EMPLOYMENT

Dear client:

I refer to your application for temporary employment in Canada. We have been informed that your prospective employer in Canada has withdrawn the offer of employment made on your behalf.

I regret, therefore, that I must close your application. If you have been requested to forward additional information, to undergo a medical examination, or to appear for an interview at this office, you should now disregard these requests and consider them cancelled. Please note that we can only reconsider your application if you are able to obtain another offer of employment which has been validated by a Canada Employment Centre.

We appreciate that this decision may come as a disappointment to you and we regret our advice could not have been more favourable.

Thank you for your interest in Canada.

Yours sincerely,

Counsellor (Immigration) and Consul

W–11 (06/95) **CAIPS**

APPENDIX B – ANNEX 3
SAMPLE REFUSAL LETTER – OVERSEAS APPLICANT DOES NOT RESPOND TO REQUESTS FOR DOCUMENTS

Dear client:

This refers to your application for employment in Canada as a Live–in Caregiver and to your lack of response to our previous correspondence.

As you have not complied with our requests to submit documentation required for the processing of your application for temporary employment in Canada, I regret to advise that your file is now closed. Should you wish to proceed with a new application, we would be pleased to forward the appropriate application forms to you upon receipt of a new offer of employment validated by a Canada Employment Centre.

Thank you for your interest in Canada.

Yours sincerely,

Counsellor (Immigration) and Consul

cc: CEC (include name of employer)
W–14 (06/95) **CAIPS**

APPENDIX B – ANNEX 4
SAMPLE REFUSAL LETTER – OVERSEAS APPLICANT PROVIDES FALSE TRANSCRIPTS

Dear client:

This refers to your application for temporary employment in Canada as a live–in caregiver.

I regret to advise you that we are unable to approve your application. Following a review of the information provided by you in support of your application, it has been determined that you are unable to comply with the requirements of subsection 9 (3) of the *Immigration Act* which reads:

> "9(3) Every person shall answer truthfully all questions put to him by a Visa Officer and shall produce documentation as may be required by the visa officer for the purpose of establishing that his admission would not be contrary to this Act or the Regulations"

It has been determined that you submitted false transcript of records along with your caregiver application. As a result of this misrepresentation, I am unable to determine if you meet the requirements of the Live–in Caregiver Program as set out in section 20(1.1) of the *Immigration Regulations*, which states that :

> 20(1.1) An immigration officer shall not issue an employment authorization to a person who seeks admission as a live–in caregiver unless all of the following requirements have been met:
>
> a) successful completion of a course of study that is the equivalent of Canadian secondary school;
>
> b) successful completion of six months of full–time training related to the employment for which the employment is sought in a classroom setting, as part of a course of study referred in paragraph a) or otherwise; OR
>
> completion of one year of full–time paid employment including at least six months of continuous employment with the same employer, in that field or occupation within the three years immediately prior to the day on which the person submits an application.
>
> c) ability to speak, read and understand either the English or French language at a level sufficient to communicate effectively in an unsupervised situation as required in the definition of live–in caregiver.

As you are unable to fulfil the requirements of the program, I am obliged to refuse your application. Please advise your employer in Canada of this decision. While I regret that the decision could not be more favourable, I would like to thank you for your interest in Canada.

You should disregard any previous instructions that may have been sent to you from this office.

Yours sincerely,

Counsellor (Immigration)

cc: CEC :
Employer :

W–10M (06/95)

APPENDIX C
THE LIVE–IN CAREGIVER PROGRAM

Provincial Labour Standards Contacts

If you have questions, difficulties or complaints regarding your employment as a live–in caregiver, you can call or visit the Labour or Employment Standards Branch for your province or territory. The counsellors at these offices will answer questions you may have about your rights, and help you if you are having any work–related difficulty with your employer. Sometimes you will hear a pre–recorded message when you call these numbers. Just stay on the line and follow the directions that you receive. If the recorded message does not answer your question, a counsellor will eventually come on the line. These numbers are used frequently, and it may take more than one try to get through. Be patient.

If you prefer, you can write to the office listed. Just write a letter indicating your question or concern and mail it to the address shown. Be sure to include your name and occupation (what you do) and how you can be reached (phone number and address). If it is important that you get assistance quickly, remember that calling is faster than writing. Do not hesitate to contact these people. They are there to help you. That is their job.

Provincial Labour Contacts

Newfoundland

Labour Standards Board
Department of Employment and Labour
P.O. 8700
St. John's, Newfoundland
A1B 4J6
Tel.: (709) 729–2742

Nova Scotia

Labour Standards Division
Department of Labour
P.O. 697
Halifax, Nova Scotia
B3J 2T8
Tel.: (902) 424–4311

Prince Edward Island

Employment Standards Division
Department of Provincial Affairs
and Attorney General
P.O. Box 2000
Charlottetown, P.E.I.
C1A 7N8
Tel.: (902) 368–5550

New Brunswick

Employment Standards Branch
Department of Advanced Ed. and Labour
Chestnut Complex
470 York Street, P.O. 6000
Fredericton, N.–B.
E3B 5H1
Tel.: (506) 453–2725
(506) 453–3902

Quebec

Commission des normes du travail
400, Jean–Lesage Blvd.
Québec, Québec
G1K 7Z5
Tel.: (418) 643–8414
Greater Mtl: (514) 873–7061

Ontario

Employment Standards Branch
Ministry of Labour
2275 Midland Avenue
Scarborough, Ontario
M1P 3E7
Tel.: (416) 326–7160 (in english)
(416) 326–7210 (in french)

Manitoba

Employment Standards Branch
Manitoba Labour
Room 604
401 York Avenue
Winnipeg, Manitoba
R3C 0P8
Tel.: (204) 945–3354

Saskatchewan

Labour Standards Branch
Department of Human Resources
1870 Albert Street
Regina, Saskatchewan
S4P 3V7
Tel.: (306) 787–2438

Alberta

Employment Standards Brand
Department of Labour
10808, 99th avenue
9940–106th Street, 11th Floor
T5K 2N2
Tel.: (403) 427–3731

British–Colombia

Employment Standards Branch
Ministry of Labour and Consumer Services
210–4946 Canada Way Burnaby
Victoria, British–Colombia
V5G 4J6
Tel.: (604) 660–4000

Northwest Territories

Labour Services
P.O. Box 2804
Yellowknife, NWT
X1A 2L9
Tel.: (403) 873–7486
Zenith 06071
(403) 873–0483

APPENDIX D
LIVE–IN CAREGIVER CONTACTS

You can contact any of the following groups to get more information about your rights as a domestic worker in Canada. You don't need your employer's permission to contact these groups. These groups can help with questions about conditions of work, employee–employer relationships, changing jobs, job loss or abuse. They can also help you learn more about your new community or help you meet people.

Association for the Defense of the Rights of Domestic Workers of Montreal

318–1857 Maisonneuve West,
Montreal, Quebec
H3H 1J9
Tel.: (514) 937–6873

Calgary Immigrant Women's CenterDomestic Workers Group

203–7th Avenue S.W.
Calgary, Alberta
T2P 3E9
Tel.: (403) 263–4414

Committee for Domestic Workers' and Caregivers' Rights

789 East 14th Avenue
Vancouver, B.C.
V5T 2N3
Tel.: (604) 874–0649

Domestic Worker's Association of Saskatchewan a/s Immigrant Women of Saskatchewan

2248 Lorne Street
Regina, Saskatchewan
S4P 2M7
Tel.: (306) 359–6514

Ottawa Carleton Immigrant Services Organization

959 Wellington Street
Ottawa, Ontario
K1Y 4W1
Tel.: (613) 725–0202
Fax: (613) 725–9054

Toronto Organization for Domestic Workers' Rights (INTERCEDE)

234 Eglinton Avenue East
Suite 205
Toronto, Ontario
M4P 1K5
Tel.: (416) 483–4554
Fax: (416) 483–9781

West Coast Domestic Workers Association

302–119 West Pender Street
Vancouver, B.C.
V6B 1S5
Tel.: (604) 669–4482
Fax: (604) 669–6456

APPENDIX E
COUNSELLING FACT SHEET

Important Information for Live–in Caregivers

It is strongly recommended that you and your employer sign an employer–employee contract (a sample is in the LCP information booklet.) You should ask for a "pay slip" with each pay cheque that shows your deductions and net pay.

If you are not happy with your job, you should tell your employer. A little flexibility on both sides is often enough to cause changes so that you are both happy. Some employers have waited a long time and may have paid agency fees to bring you to Canada. They will appreciate your honesty.

If you decide to change employers, you cannot begin work until you get a new employment authorization. Your new employer needs to get approval from a Canada Employment Centre before you can get your new employment authorization.

You should apply for an extension of your employment authorization in Canada two months in advance of the expiry date. This is your responsibility, not your employer's.

Under no circumstances can an employer have you deported from Canada. Employers have no authority to hold your passport.

You are authorized to work in Canada as a live–in caregiver only. If you work in any other job, even part–time work, you could be disqualified from the program and from getting permanent residence.

If you or someone else, lied about your education, training or experience when you first applied in the LCP overseas, you could be disqualified from the program in Canada.

If you want to apply for permanent residence in Canada, you must:

- work full–time for two years, within three years after you arrive in Canada, as a live–in caregiver.
- you, your spouse and your dependant children must pass medical, criminal and security checks and must NOT be going to an Immigration Inquiry (hearing), or be under an order to leave Canada. For example, if you marry a refugee claimant in Canada, the status of your spouse could prevent you from getting landed.
- you must live in your employer's home or you cannot continue to work in the Live–in Caregiver program and you cannot apply for permanent residence.

If you plan to apply for permanent residence, you may wish to get original documents that show, in as much detail as possible, all of your education, training and experience before you leave your country. These documents could help you when you apply for work in Canada, or help you get into a program of study, after you become a permanent resident. It is often easier to get these documents while you are still in your home country.

If you had to get a visitor visa to come to Canada, you may have to get a new one if you leave Canada temporarily, on holidays for example, unless you are visiting the United States.

APPENDIX F
FACT SHEET ON EMPLOYMENT STANDARDS LEGISLATION APPLICABLE TO LIVE–IN CAREGIVERS OR DOMESTIC WORKERS

FEDERAL

Immigration Policy

Canadian immigration policy is interested in protecting the conditions of work for foreign live–in caregivers. For example, such policies strongly recommend to clients of the Live–in Caregiver Program that they sign a contract of employment outlining the employee's and the employer's rights and obligations with respect to their employment relationship. This is particularly important where the provincial or territorial employment standards legislation, in all or in part, does not apply to domestics. The term "domestic" usually has a precise meaning under these acts, which may vary from one jurisdiction to another.

It is important to note that the *Canada Labour Code*, the federal employment standards legislation applicable to types of employment which fall under the federal jurisdiction, does not apply to situations of domestic employment. The Code applies to specific industries and sectors falling within the exclusive legislative authority of the federal government, which includes works or undertakings that are generally of national importance, for example, inter–provincial transportation, telecommunications and wheat and grain handling.

Alberta

Live–in caregivers are entitled to most of the working conditions provided under the *Employment Standards Code*, including, among other things: assistance in the recovery of unpaid wages; annual vacations and vacation pay; weekly day of rest; maternity and adoption leave; and notice of termination of employment. However, they are excluded from the hours of work and overtime provisions, the minimum wage provisions and the general holidays with pay provisions.

Therefore, working conditions, especially those relating to hours of work and to wages, need to be clearly set out in an employer/employee contract. This will help to avoid misunderstandings and will help settle any employment related dispute, for example, one dealing with the amount of wages due. The Code also states that an employee cannot be held responsible for any loss or breakage if other persons had access to the lost or broken property.

British Columbia

Live–in caregivers are covered by the minimum employment standards, including, among other things: wage protection; annual vacations with pay; paid general holidays; pregnancy and parental leave; and notice of termination of employment. B.C. Government Standards Branch refers to live–in caregivers as domestics. Until recently, live–in caregivers were excluded from the general minimum wage, hours of work, overtime pay and hours free from work provisions of the *Employment Standards Act*; these provisions now apply to them. In addition, an employer who requires the employee to wear a uniform or other special apparel must provide it free of charge and also pay for its upkeep and cleaning.

The law requires that, on hiring a live–in caregiver, an employer must provide a written contract of employment which clearly sets out the conditions of employment, including the duties to be performed, the hours of work, the wages and the charges for room and board. These conditions must, of course, meet the minimum standards of the Act. The minimum wage is currently set at $7.00 per hour (as last revised October 1, 1995).

Manitoba

The *Employment Standards Act* only covers certain live–in caregivers, depending on the duties they perform. For example, participants who care for children and provide services such as cooking and cleaning *for the entire family* are covered by the Act. However, participants who care for, cook and clean *for the children only* are not covered. Nor would a person who serves strictly as a companion for an aged, inform or ill member of the family be covered. Clients of the Live–in Caregiver program should

therefore give careful consideration to how widely or narrowly duties are defined in the employment contract if their intention is to have the Act apply to their situation. Most live–in caregivers would be covered because they are often expected to provide caregiving services to all the members of the family, while also running the household in the employer's absence.

The *Domestic Workers Regulation*, which applies to live–in caregivers employed for more than 24 hours in a week, establishes daily hours of work (not more than 12 hours in any day), the maximum deductions for a room and meals, the duty of an employer, who requires the employee to wear a uniform or other special apparel, to provide it free of charge and to pay for its maintenance and cleaning, and time off from work each day and each week. The Act specifies the other conditions of work that apply, including, among others: the minimum wage **($5.25 per hour, as last revised on July 1, 1995; will increase to $5.40, effective January 1, 1996)**; overtime pay; paid general holidays; annual vacations with pay; maternity and parental leaves; termination of employment; and recovery of unpaid wages.

New Brunswick

In New Brunswick, live–in caregivers are covered by the *Employment Standards Act*. The Act and regulations establish the working conditions relating to, among other things, the minimum wage ($5.00 per hour, as last revised on October 1, 1991; **(will increase to $5.25 on January 1, 1996, and to $5.50 on July 1, 1996)**, maximum deductions from wages for room and board, hours of work and overtime (there are no maximum daily or weekly hours of work, but overtime is payable after 44 hours in a week at a rate of at least one and one–half times the minimum wage), weekly rest–day, public holidays with pay, vacations with pay, notice of termination, maternity and parental leaves, and wage protection. No amount can be deducted from the minimum wage by an employer for board or lodging which was not furnished by the employer. The parties to a live–in caregiver contract may agree to terms of employment that meet or exceed those provided in the Act.

Newfoundland

Live–in caregivers are covered by the *Labour Standards Act* of Newfoundland. The Act and regulations establish the working conditions relating to, among other things, the minimum wage ($4.75 per hour, as last revised on April 1, 1991), maximum deductions from wages for room and board, hours of work (maximum of 16 hours in any day) and overtime (payable after 40 hours in a week at a rate of at least one and one–half times the minimum wage), public holidays with pay, vacations with pay, notice of termination, maternity and parental leaves, and wage protection. In addition, live–in caregivers may work under an arrangement that entitles them to take time–off in lieu of overtime pay when they work in excess of 40 hours in a week.

Northwest Territories

Provisions of the *Labour Standards Act* apply in respect of live–in caregivers. The minimum wage ($6.50 per hour, or $7.00 per hour in areas distant from the N.W.T. highway system, as last revised April 1, 1991), hours of work and overtime (payable after eight hours in a day or 40 hours in a week), weekly day of rest, annual leave, public holidays, maternity and parental leave, termination of employment etc., provisions apply in full. No employer can reduce the wages of an employee below the minimum wage for the furnishing, repairing, or laundering of any uniform or special apparel to be worn by the employee, or for accidental breakage by an employee of any article of property belonging to the employer.

Nova Scotia

Live–in caregivers are excluded from the application of Nova Scotia's *Labour Standards Code*. In the absence of a written contract of employment, domestics will not benefit from *specified conditions of employment*. Therefore, it is *very important* to clearly state all conditions of employment, including wages, hours of work and overtime, and other terms, in an employer/employee contract. A contract will help avoid misunderstandings and help settle any dispute related to the working conditions.

Ontario

Live–in caregivers employed by a householder for more than 24 hours a week are entitled to the provisions of the *Employment Standards Act*. However, the *Domestics, Nannies and Sitters Regulation* provides certain conditions of work that apply to such live–in caregivers that are not covered by the general provisions of the Act. This regulation requires the householder to provide the live–in caregiver

with written particulars of employment concerning the regular hours of work and the hourly rate of pay. The regulation entitles caregivers to two periods of free time each week, one period of 36 consecutive hours and one of 12 consecutive hours, which may not necessarily be continuous. If the employee agrees to perform work during these periods of free time, the employer must pay one and one–half time the employee's regular rate for each hour worked, or compensate the employee by adding one and one–half hours for each hour worked to the employee's free time within the next four weeks. Overtime also is payable after 44 hours in a week or, if the live–in caregiver agrees, compensated within the next 12 weeks at the rate of one and one–half hours time off for each hour worked.

Live–in caregivers are entitled to the minimum wage set out in the *General Regulation* under the Act (**$6.85 per hour, as last revised January 1, 1995**). This regulation also establishes the maximum deductions for room and meals supplied by the employer.

Live–in caregivers are also entitled to the other conditions of work specified in the Act such as public holidays, vacations with pay, pregnancy and parental leave, termination of employment and protection of wages. In addition, the Act stipulates that the employer cannot deduct any amount of money from the wages of an employee for loss or breakage of property, without the written consent of the employee, and in no circumstance can such a deduction be made if a person other than the employee had access to that property.

Prince Edward Island

Live–in caregivers would generally be covered by the terms of the *Employment Standards Act*. The Act excludes certain domestic workers from the application of the minimum wage provisions and the hours of work, overtime and weekly rest–periods provisions. Persons employed for the sole purpose of protecting and caring for children, handicapped or aged persons in private homes are excluded. Clients of the Live–in Caregiver Program would not normally fall under this exclusion, because most caregivers are not *only* required to provide care, but also usually perform other tasks such as cooking, cleaning and laundering. Clients of the caregiver program therefore should give particular attention to how duties are defined in the employer/employee contract and how they are carried out.

The Act provides various working conditions including, among other things, the minimum wage ($4.75, as last revised April 1, 1991), paid holidays, vacations with pay, hours of work and overtime, weekly rest periods, maternity and parental leave, notice of termination, protection of wages, etc. The employer cannot charge the employee for a meal or for lodging not received by the employee. In no case can the deduction for meals or lodging reduce the amont of wages of the employer to a lesser amount than the minimum wage rate.

Quebec

The Live–in Caregiver Program operates differently in Quebec relative to the other provinces and territories in Canada. This is due to a Canada–Quebec Accord which gives Quebec jurisdiction in some areas of immigration. Although applicants are selected overseas according to the same eligibility criteria, differences occur in the program's administration in Quebec. For example, employers and employees must sign a contract which includes basic employment standards. For further information, please contact the Ministère des Affaires Internationales, de l'Immigration et des Communautés culturelles.

Quebec's *Act respecting Labour Standards* applies to live–in caregivers who provide caregiving services and perform other duties such as cooking, cleaning or laundering for the entire family. However, the Act excludes those who are employed solely to care for a child, or a sick, handicapped or aged person, and to look after the immediate needs of that person. Clients of the live–in caregiver program therefore should give particular attention to how duties are defined in the employer/employee contract and how they are carried out. The caregiver must also be employed by a person, not a corporation (or some other legal entity), for the Act to apply.

The *Regulation respecting Labour Standards* sets the minimum wage for live–in caregivers at **$250.00** per week (as last revised **October 1, 1995**). The standard work week is **51** hours (**recently reduced from 53 hours per week**), after which overtime, at a rate of one and one–half times the employee's regular rate of wages, becomes payable. The regulation also specifies the maximum deductions for room and meals.

Other conditions of work provided in the Act and the Regulation apply, such as paid public holidays, annual vacations with pay, maternity, parental and family–related leave, rest periods and notice of termination. In addition, where the employer requires the wearing of a uniform, he or she must supply it free of charge to an employee who is paid the minimum wage. The employer cannot deduct from an employee's wages an amount for the purchase, use, or upkeep of a uniform if the payment causes the employee to receive less than the minimum wage.

Saskatchewan

Many provisions of the *Labour Standards Act*, such as those concerning maternity or adoption leave, annual vacations with pay, public holidays and the recovery of unpaid wages, apply to live–in caregivers. In addition, where the employer requires the employee to wear a uniform or special apparel, the employer must provide, repair and launder that uniform or special apparel free of cost to the employee.

However, certain key provisions such as hours of work, overtime pay and termination of employment provisions, do not apply to them. In addition, live–in caregivers would be entitled to the minimum wage ($5.35 per hour, as last revised December 1, 1992) *only* if their employer is in receipt of a publicly funded wage subsidy and, in such a case, only for eight hours of work each day. It is therefore important to clearly set out the conditions of work in an employer/employee contract to help avoid misunderstandings and help settle any dispute which may arise.

Yukon Territory

Live–in caregivers employed directly by a householder would normally be covered by the terms of the *Employment Standards Act*, except those concerning hours of work and overtime pay. Those employed by an employer that is engaged in the business of providing domestic services would covered by all the provisions of the Act. Live–in caregivers employed as sitters *solely* to provide caregiving services to a child, or to a disabled, infirm or other person, are excluded from the Act. However, a caregiver who also performs other tasks about the home, such as cooking, cleaning or laundering, is covered. Clients of the caregiver program therefore should give particular attention to how duties are defined in the employer/employee contract and how they are carried out. The contract should also clearly set out the daily and weekly hours the caregiver is expected to work, the maximum hours and rest periods, as well as the hours in excess of which overtime will be paid.

Among the provisions of the Act that normally apply to live–in caregivers are the following: minimum wages (**$6.86 per hour, as last revised October 1, 1995**), annual vacations with pay, general holidays with pay, maternity and parental leave, termination of employment, recovery of unpaid wages provisions, etc. Maximum deductions for room and board may not exceed $5.00 per day for an employee who is paid the minimum wage or equivalent, and may not reduce the employee's daily earnings to less than the employee would have earned at the minimum wage, less $5.00. The deductions can only be made if the meal or lodging were furnished to the employee, and if there is a written contract of employment, signed by the employee, providing for the deductions.

APPENDIX G
SAMPLE LCP REFUSAL LETTER

This refers to your application for permanent residence (landed immigrant), under the Live–In Caregiver Program.

In order to become a permanent resident under the Live–In Caregiver Program, you must comply with requirements as specified in the *Immigration Regulations* for this class.

[OPTIONAL: On (date) you were interviewed by an immigration officer regarding your application for permanent residence. Information you provided at this interview as well as . .] Information on your application has been carefully reviewed. I regret to inform you that you do not meet the legal requirements of the *Immigration Regulations*, as follows:

( ) you are not in possession of a valid and subsisting employment authorization to work as a live–in caregiver;

( ) you have not resided in your employer's home;

( ) you have not completed a total of two years of employment in Canada as a live–in caregiver within three years after being admitted to Canada (*Regulation* 2(1));

( ) you are the subject of an inquiry under the *Immigration Act*, or, following an inquiry under the Act, the subject of an appeal or application for judicial review (*Regulation* 2(1));

( ) your dependant(s), is/are the subject of an inquiry under the *Immigration Act*, or, following an inquiry under the Act, the subject of an appeal or application for judicial review (*Regulation* 2(1));

( ) you misrepresented the educational, training or experience requirements for entry into the Live–In Caregiver program referred to in *Regulation* 20(1.1)(a) and therefore do not meet the landing requirements of *Regulation* 11.3, specifically:

_____

_____

_____

( ) you are inadmissible due to a medical condition or criminal conviction and are, therefore, a member of an inadmissible class of persons pursuant to section 19 of the *Immigration Act* and, as a result, you do not meet the landing requirements of *Regulation* 11.3, specifically:

_____

_____

_____

( ) your dependant(s) is/are inadmissible due to a medical condition or criminal conviction and are, therefore, a member of an inadmissible class of persons pursuant to section 19 of the *Immigration Act* and, as a result, you do not meet the landing requirements of *Regulation* 11.3, specifically:

_____

_____

_____

( ) your dependant(s) has/have not undergone examination within the allocated period of time or could not be located.

Your employment authorization cannot be extended beyond three years from the date you were admitted to Canada under the Live–In Caregiver program. As you were admitted to Canada on (date), you cannot receive extensions of your employment authorization beyond (date).

You are required to leave Canada on or before the expiry date of your employment authorization.

Thank you for the interest you have shown in Canada. I regret that my reply could not have been more favourable.

Yours truly,

Manager,
Canada Immigration Centre

IMMIGRATION

Canada

Chapter OP 14
Medical Procedures



Citizenship and Immigration

Canada

Chapter OP 14

Medical Procedures



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1 INTRODUCTION

1.1 What is this chapter about?

This chapter explains when and why medical examinations are required. It also describes how to issue medical instructions and how to use the results of a medical examination.

1.2 Legislation

A11 authorizes immigration officers to require applicants for admission to Canada to have medical examinations. This authority helps you protect the health, safety and good order of Canadian society [A3(i)].

This goal is also behind A19(1)(a). It describes persons who cannot be admitted to Canada because they are, or might be, a danger to public health and safety. It describes as well, persons who will or might cause excessive demands on our health care system and certain social services.

2 ISSUING MEDICAL INSTRUCTIONS

2.1 Who requires a medical examination?

Every immigrant and every visitor of a prescribed class, must take a medical examination [A11(1)].

2.1.1 Prescribed classes of visitors

R21 defines the two prescribed classes of visitors. One class includes people who intend to work in certain occupations. The other is best described by the six month rule. If they have spent more than six consecutive months in places where communicable diseases are more widespread than in Canada and want to stay more than six months, they need a medical examination. Calculate the first six months in the 12 months before the date they seek entry to Canada. Include real or planned absences of less than 14 days from Canada when calculating the second six months.

The list of occupations is in APPENDIX A.

The list of places where communicable diseases are more prevalent is in IR 3, *Medical*.

2.1.2 Other visitors

You also have authority to require a medical examination if you think A19(1)(a) describes visitors. They might have answered "yes" to the question about medical problems on the application form.

Visitors seeking medical treatment in Canada might need an examination as well. You use your discretion in these kinds of cases. Visitors who pre-pay for treatment from a private or public facility may not need an examination. Other visitors might be seeking treatment not covered by health insurance plans in Canada. These applicants would not fall into A19(1)(a)(ii) if they prove there is no risk of excessive demand on the public health care system. They would not require an examination.

When you are not persuaded an applicant is outside the scope of A19(1)(a)(ii), you might still not insist on an examination. A visitor in a life-threatening emergency, going to a hospital specializing in treatment unavailable elsewhere, may merit expedited case processing. If you are convinced payment for the treatment is guaranteed, you might dispense with an examination to save time.

2.1.3 Dependants of immigrant applicants

Immigrant applicants sometimes have dependants who will not go to Canada. With very few exceptions, these dependants must also take examinations. The exceptions are:

a) "opted-out" unmarried children over 21 of an immigrant who applied before March 27, 1992, or "opted-out" unmarried children over 21 of family class applicants sponsored before the same date (J-88 regulations apply to their applications);

b) non-accompanying dependants of Convention Refugees;

c) spouses separated from and not living with applicants (the applicant must submit written evidence of the separation); and

d) children of an applicant or an applicant's spouse who are in the legal custody or guardianship of the spouse or ex-spouse.

2.2 Who is exempt from medical examination?

No immigrant is exempt from a medical examination.

Only a few visitors in the two prescribed classes are exempt from having medical examinations. R21(2) describes them. They include diplomats, consular officers,

representatives and officials of other countries, as well as the United Nations and organizations to which Canada belongs.

Private servants of these people, however, are not always exempt. Only servants who are citizens of and paid by the sending state to work in a chancery or official residence, are exempt. Circular Note no. 2197 of August 11, 1993 from the Department of Foreign Affairs describes this exemption.

2.3 Who may perform a medical examination?

Only Designated Medical Practitioners (DMPs) may perform examinations. The list of DMPs worldwide is in IR 3.

Applicants can ask for permission to go to a different doctor in the U.S. or Canada. If they would experience real hardship, damage to their health or physical difficulty travelling to a DMP, they address their request to:

Director
Immigration Health Services (RHN)
Citizenship and Immigration Canada
Ottawa, Ontario
K1A 1L1
Fax: 1-613-941-2179.

2.4 How to issue an IMM 1017

Staff of the visa office must complete Part A of the Medical Report for Immigration (**IMM 1017**). Box 11 of this section is where they indicate the applicant's category. The choices are "immigrant", "visitor", "student", "worker", "dependent of student", or "dependent of a worker". The staff member attaches a photograph here and stamps its border with the office wet seal.

Each person going to the DMP requires an **IMM 1017**. The DMP uses it to record individual medical histories and the results of the examination.

Give applicants the Medical Examination Requirements (IMM 0440) with the **IMM 1017**. They also get a DMP list for the area where they will have the examination. If this is outside your medical officer's territory, you include his/her address. The DMP must send the **IMM 1017** and other reports to your medical officer.

You can give an **IMM 1017** to someone who is not yet an applicant.

3 USING THE RESULTS

3.1 Medical profile

The DMP sends the **IMM 1017** and other reports to the medical officer (MO). The MO studies them and sends you the results on a Medical Notification (IMM 1014), by fax or electronically to CAIPS. The results include the applicant's medical profile.

The medical profile is an alphanumeric code, e.g. M1. See IR 3 for a description of the profiles.

For profiles M2 to M7, the MO will add a comment pertaining to the medical condition.

You cannot normally refuse for medical reasons, an applicant with an M1, M2, or M3 profile.

An MO may make specific comments (for example: the assessment is valid for the current application).

You cannot issue a visa or authorization to anyone with M4, M5, M6, or M7 profiles. The only exceptions to this rule are dependants (DR1/DR2 category applicants) of CR8 refugees.

3.2 Validity of overseas medical results

You can use results with medical profiles of M1, M2, or M3 for twelve months from the examination date. If you do not finish processing in time, ask for a new examination or an extension of the medical validity.

There is no expiry date for results with medical profiles of M4, M5, M6, or M7.

You cannot issue a visa valid beyond the expiry of the applicant's medical results.

You must tell applicants who are visa-exempt to arrive before the results expire.

The only exceptions to this rule are dependants (DR2 category applicants) of CR8 refugees and dependants (PD2 category applicants) of PD1 members of the post-determination refugee claimant in Canada class.

3.3 Medical surveillance

If the MO tells you an applicant must contact public health officials, you issue a Medical Surveillance Undertaking (IMM 0535). The MO will include a surveillance code with the medical assessment for these cases. The code can be S2.01, S2.02, S2.04.

The Visa office must complete items 1 to 10 on the IMM 0535. The address at item 7 must be accurate and reliable. Item 9 requires the unabbreviated name of the office with the medical file.

The applicant must sign the form at item 11.

If you issue an immigrant visa, student or employment authorization as well, include terms and conditions. They are in Part 1 of the IH manual under Immigrant Documents-IMM 1000 and Visitor Documents.

3.4 Release of medical information

You can give an applicant a copy of the MO's diagnosis and narrative description of the medical condition. With the applicant's permission (signature in "Authority to disclose personal information" section of the IMM 0008), you can do the same for authorized representatives, sponsors, employers or a province. Non-immigrant applicants must also supply written authorization to release information to third parties.

If applicants want more medical information, tell them their doctor must contact the MO. Only the MO can release information from the medical file.

3.5 Visitor and Immigrant results

An applicant who is medically inadmissible as an immigrant may be admissible as a visitor. The reverse may also be true, if the visitor's medical condition improves between applications (e.g. an active condition becomes inactive after treatment). You cannot use all medical assessment results interchangeably.

With some exceptions, when an applicant changes categories, a medical officer must assess medical examination results for the new category. If the first examination was less than a year earlier, a medical officer may review the existing results in the new category. Otherwise, you should issue instructions for a new examination in the new category.

The **only** exceptions to this instruction are immigrant applicants with M1, M2 or M3 profiles and visitors with M1 or M2 profiles. They do not need a medical officer to assess their examination results in the new category.

You **must** ask a medical officer to review examinations of visitors with **M3** profiles who apply as immigrants.

Applicants are responsible for informing you if they applied before in a different category. This includes applications in Canada for extensions of status. They must state where they applied and the application file number. Without this information you cannot locate earlier medical results easily.

3.6 Inadmissible visitors seeking treatment

A visitor seeking treatment that puts excessive demand on our health care system, will be M5. They are not admissible. You may have humanitarian or national interest reasons to allow them forward. In such cases, you must follow the instructions in OP 19.

See Section 2.1.2 above for guidelines for examination of visitors seeking treatment.

4 PROCEDURAL FAIRNESS

Procedural fairness (see also OP 1, Section 10) requires you to give applicants the opportunity to disabuse you of concerns about their admissibility. When you receive advice from Medical Officers that applicants are described in A19(1)(a) you must let applicants look at and respond to the diagnosis.

After you receive an IMM 1014 with a medical profile of M4, M5, M6, or M7 notify the principal applicant using the sample letter attached in Appendix B to these instructions. Enter the diagnosis and narrative from the IMM 1014 in the letter to describe the medical condition.

Allow a minimum of 60 days from the date of your letter of notification for the applicant to respond.

Applicants are responsible for sending you any additional documentation or information that may be relevant to the issue. They are also responsible for any fees charged by doctors or other professionals that they consult as a result of this opportunity to submit new information. Applicants must respond to your office within the above deadline quoting their file number on any documentation or information.

The mission/visa officer will then forward the information to the appropriate Medical Officers using the form letter in Appendix C attached to these instructions. The Medical Officers will review the material submitted and either confirm the original medical profile, issue a new IMM 1014, or advise that a new medical examination is required.

If the applicant does not supply additional documentation or information to you within the time allowed, you may refuse the application.

5 APPEAL ALLOWED

5.1 New medical examination

After you have refused an applicant with a medical condition, the Appeal Division (IAD) of the Immigration and Refugee Board (IRB) may allow an appeal. When this happens, you must resume and finish processing quickly. Since you cannot refuse again citing the same condition, a new examination may be unproductive. Unless you strongly suspect a new medical condition is present, there is no reason for a new examination.

5.2 Protecting public health and safety

You must balance your responsibility to act quickly on decisions of the IAD with protection of the public. You may still require medical surveillance and recommend terms and conditions of landing. You must tell the port of entry and regional immigration headquarters where, when and how the immigrant will arrive. Officials there will inform Health Canada and Revenue Canada employees responsible for quarantine and other protective arrangements.

APPENDIX A
OCCUPATIONAL BASIS FOR MEDICAL EXAMINATION OF PERSONS RELATIVE TO PROTECTION OF PUBLIC HEALTH R21(1)(a)

1) Occupations which bring the incumbent into close contact (more than three hours per day and/or risk of exchange of body fluids) with people, namely:

   a) workers in the health services field, including hospital staff and employees, clinical laboratory workers, patient attendants in nursing and geriatric homes, medical students admitted to Canada to attend university, medical electives and physicians on short-term locums;

   b) teachers of primary or secondary schools or other teachers of small children;

   c) domestics;

   d workers who give in home care to children, the elderly and the disabled;

   e) day nursery employees; and

   f) camp counsellors.

2) Agricultural workers from countries where column 4, "Visitor Medical Required (Yes or No)" in IR 3, *Medical*, indicates "Yes".

APPENDIX B
LETTER TO PRINCIPAL APPLICANTS

Date

File:

Dear:

This refers to your application for permanent residence in Canada.

I have received a medical notification stating that (*you/dependant - (state dependant's name*) are/is) have/has the following medical condition or diagnosis: (*insert name of disease or condition and diagnosis from IMM 1014*), which in the opinion of a medical officer:

(put in narrative from IMM 1014).

This information raises concerns that you/your dependant (may be a danger to public health/public safety in Canada/can be expected to cause excessive demands on health or social services in Canada). For this reason, you may be a member of the inadmissible class under section 19 (1) of the Immigration Act and your application for permanent residence could be refused.

Section 19 (1) states that "No person shall be granted admission who is a member of any of the following classes:

(a) persons who are suffering from any disease, disorder, disability or other health impairment as a result of the nature, severity or probable duration of which, in the opinion of a medical officer concurred in by at least one other medical officer,

(i) they are or are likely to be a danger to public health or to public safety, or

(ii) their admission would cause or might reasonably be expected to cause excessive demands on health or social services;.

Before I make my final decision, you may submit additional information or documents relating to the above medical condition, diagnosis or opinion. You may also submit any information addressing the issue of excessive demand if it applies to your case.

You have until (date of letter plus sixty days) to submit additional information to our office in _____ at the address shown below. Please ensure that you quote the file number indicated at the top of this letter on any information you submit. We will then forward the information to the appropriate medical officers who will review the material and advise us of their conclusions.

You are responsible for any fees charged by doctors or other professionals you consult as a result of this opportunity to submit new information.

You must provide any additional information within sixty days from the date of this letter. If you choose not to respond with additional information a decision will be rendered in your application based on the information before us.

Yours truly,

(Appropriate Signature Block)

APPENDIX C
LETTER TO DMP

Office File:

Medical file:

Director, Health Programs (RNH)
Citizenship and Immigration Canada
Jean Edmond Towers South, 14th Floor
365 Laurier Avenue West
Ottawa, Ontario
K1A 1L1 Canada

or MOF Address for other offices

Dear Doctor:

re: (Applicant's Complete Name and DOB)

Enclosed is additional medical material submitted under procedural fairness on behalf of the above-named applicant who was previously assessed at your office under the above reference medical file number.

Kindly review the material and advise us of your conclusions at your earliest opportunity.

Sincerely,

Immigration Section

enc.

IMMIGRATION

Canada

Chapter OP 15
Travel Documents and Passports





Citizenship and Immigration Canada

Citoyenneté et Immigration Canada

Travel Documents and Passports

1. INTRODUCTION **1**

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APPENDIX A
PASSPORTS ISSUED BY BRITISH AUTHORITIES **15**

1. INTRODUCTION

1.1 What is this chapter about?

This chapter is intended to provide guidance on the requirements of passports and travel documents. In addition, it will assist readers in evaluating the worth of some of the many documents issued.

1.2 What are the functions of passports or travel documents?

Passports and identity or travel documents are designed to facilitate international travel, and are normally recognized as an acceptable form of identification. In the case of visitors, they may, by establishing a person's citizenship or country of residence, constitute an acceptable guarantee of readmission as required by our legislation.

1.3 What are the requirements for immigrants?

All immigrants are required to be in possession of a valid passport or travel document as detailed under R14. The purpose of this requirement is to ensure adequate identification of the individual concerned.

1.4 Exceptions for immigrants

There are a number of exceptions to the above requirement for immigrants.

a) A person who holds a valid and subsisting immigrant visa, when the requirements of R14 have been waived by a duly delegated visa officer (per I–32), does not require a passport or travel document to enter Canada.

b) A Convention refugee seeking resettlement (R7), in possession of a valid and subsisting immigrant visa, does not need a passport or travel document to enter Canada, provided the issuing visa officer is of the opinion that it would be impractical to require that person to obtain such a document.

Note: Convention Refugees who made their claims in Canada are NOT exempted from the requirement to have a valid travel document, identify document or passport (see IP 3).

c) A person who has been determined to be a member of the Indochinese Designated Class (transitional), The Political Prisoners and Oppressed Persons Designated Class or The Self–exiled Persons Designated Class and is in possession of a valid and subsisting immigration visa, does not require a passport or travel document to enter Canada.

In each of the above circumstances, the immigration visa issued will bear one of the following notations in box 11 or in the "Remarks" section (box 39):

i) in the case of a person for whom the requirements of R14 have been waived – "R2.1/R14(1)"

ii) in the case of a Convention refugee – "Waiver R14(2)"

iii) in the case of a member of a Designated class – "Exemption IL 7, *Designated Class Regulations* – para 4".

d) A person who is a member of the Deferred Removal Orders Class (DROC) who is to be landed from within Canada may also be exempted from the requirement of obtaining a passport if conditions in the country of origin warrant. Social Policy and Programs, Selection Branch (SSD) in consultation with the International Region (RID) will determine if the situation in the country of origin warrants the exemption.

1.5 What are the requirements for visitors?

All visitors to Canada are required to be in possession of a valid and subsisting passport or travel document as detailed under R14(3). The purpose of this requirement is to ensure adequate identification of the individual concerned, and to guarantee that person's readmission to either the country that issued the document or to a country other than Canada.

1.6 Exceptions for visitors

There are a number of exceptions to the above requirements for visitors.

a) Visitors who are citizens of the United States do not require a passport or travel document.

b) A visitor seeking entry from the United States or St. Pierre and Miquelon, who has been lawfully admitted to the United States for permanent residence, does not require a passport or travel document.

c) Visitors seeking entry from St. Pierre and Miquelon who are citizens of France and are residents of St. Pierre and Miquelon do not require a passport or travel document. Such person can prove their status with their national identity card which will confirm that they are both citizens of France and residents of St. Pierre and Miquelon.

d) Visitors seeking entry from Greenland, who are residents of Greenland, do not require a passport or travel document.

e) A member of the armed forces of a state designated for the purposes of the Visiting Forces Act (see IR 1 list titled **Countries Designated for the Purposes of the *Visiting Forces Act***) who is seeking entry to carry out official duties for a visiting force of that country or for the Canadian Forces does not require a passport or travel document. This does not apply to a person who has been designated as a civilian component of that visiting force.

f) A visitor who is seeking entry as, or in order to become, a member of the crew of a vehicle and who is in possession of a seaman's identity document issued to him/her pursuant to International Labour Organization Conventions, or an airline flight crew licence or crew member certificate issued to him/her in accordance with International Civil Aviation Organization specifications, does not require a passport or travel document.

1.7 What are requirements for holders of Minister's permits?

Persons who are holders of valid Minister's permits require a passport or travel document in order to enter Canada unless the permit has been specifically issued to overcome the lack of such a document. In such a case, the permit will specify A19(2)(d) with reference to R14 in the "Prohibiting Section" box.

1.8 Document requirements and restrictions

1.8.1 Passports

A passport must be issued by the proper issuing authority of the country of which the individual concerned is a citizen or national.

1.8.2 Identity or travel documents

a) Only those identity or travel documents identified in R14(1) or (3) or specifically included in Schedule VII, Item 1 or 2 may be accepted for admission to Canada in lieu of a national passport. In order to be acceptable for visits to Canada, a travel document must guarantee the holder's re–admissibility to the country of issue.

b) Travel documents must be acceptable for immigration purposes, visiting purposes, or both. Acceptability for immigration purposes is conferred on certain types of documents in R14(1). Recognition of travel documents for visitors is conferred by R14(3). Schedule VII, Item 1 and 2 identify documents that do not meet the requirements of R14 but are considered as valid for immigration or visitor purposes. Officers should ensure that a document is acceptable for the purpose for which admission is sought.

c) The Minister may designate as not acceptable, travel documents which would otherwise appear to comply with the criteria of acceptability. This authority is required to control entry in instances where acceptance of a travel document could be construed as recognition of a country or regime or of the holder's official capacity as a representative of that country or regime. Schedule VII, Item 3 specifies as unacceptable, all identity or travel documents purporting to be issued by Transkei, Ciskei, Venda, Bophuthatswana and the All Palestine Government.

1.9 General requirements

1.9.1 Validity

A passport or travel document must be valid when presented at a Canadian port of entry. In the case of visitors, passport holders should terminate their stay in Canada at least one day before the date of expiry of the passport. Identity or travel document holders should terminate their stay in Canada at least one month before the expiry date of their document.

In some cases, visitors using a travel document may also require a re–entry visa or permit to be allowed to return to the issuing country. Such documents do not guarantee re–admissibility unless they are endorsed with the appropriate re–entry visa or permit. They are, accordingly, not suitable for admission to Canada as a visitor unless they are so endorsed. In addition, the validity of the document for visiting purposes would end with the expiry of the re–entry visa or permit unless the document expired first.

1.9.2 Documents with restrictions

Passports or travel documents which are endorsed "not valid for Canada", or that do not include Canada among the countries for which the document is endorsed, do in fact, comply with R14(1) for the admission of immigrants.

Passports or travel documents endorsed "not valid for Canada" or which do not include Canada among the countries for which the document is endorsed, are not acceptable for visiting purposes. In such cases the

person concerned must arrange for a new travel document or for an appropriate amendment to their original travel document. Otherwise a Minister's Permit would have to be issued to allow the individual to enter Canada.

Passports or travel documents that state that they are not valid for emigration do, in fact, comply with R14(1). They are acceptable for immigration to Canada. Nevertheless, holders of such documents should be asked to obtain an unrestricted document wherever possible as our acceptance of the restricted document may effect the willingness of the issuing country to accept the return of the individual should it be required.

1.10 Diplomatic, official and service passports

Diplomatic, Official and Service passports do not meet the requirements of R14(1) for immigrants. Persons who otherwise qualify for immigration visas should be requested to obtain ordinary or at least non–official passports before being issued immigration visas. Generally speaking all persons whose passport or travel document imparts or implies that the holder represents the issuing authority or is held in special regard by the issuing authority, should be asked to obtain an ordinary document.

Diplomatic, Official and Service passports are usually acceptable documents for visitors. It should be noted that a persons "Diplomatic" or "Official" status in Canada does not result from the designation of their passport. Such persons who are entering Canada for personal or tourist reasons will still require the appropriate tourist visa unless they are among those persons or are citizens or nationals of the countries named in Schedule II of the Regulations.

1.11 Non–recognized regimes

It should be noted that Canada does not recognize some regimes. Diplomatic, Official or Service passports issued by these regimes cannot be used to hold Canadian visitor visa counterfoils. As such persons are "Official" representatives of these regimes, the insertion of a visitor visa counterfoil may imply recognition of that regime. As this is to be avoided, officers should use an affirmation for visa (IMM 1281) when travel to Canada is to be facilitated.

The following regimes are not recognized by Canada and visitor visa counterfoils should not be placed in Diplomatic, Official or Service passports issued by these authorities:

Afghanistan
Macedonia
North Korea
Taiwan
Turkish Republic of Northern Cyprus (also applies to regular passports)

1.12 Crew member certificates

Members of the crews of vehicles arriving in Canada are exempt from the requirement to be in possession of a travel document which satisfies R14(3) provided that they are in possession of one of the following:

a) A Seafarer's National Identity Document issued pursuant to the International Labour Office (ILO) Convention 108. The ILO Convention 108 provides for the issue by each ratifying country (of which Canada is one) of an identity document to each seafarer

engaged in its maritime navigation. Particulars of name, date and place of birth, nationality or citizenship, physical characteristics, photograph and signature of the seaman to whom it is issued are included in the document which guarantees the return of the holder to the territory of the issuing country. In Canada, the Ministry of Transport issues Seafarer's National Identity Documents (laminated card) only to Canadian citizens.

b) A Seaman's Book issued pursuant to ILO Convention 22. The ILO Convention 22 provides that every seaman shall be given a document containing a record of employment on board a vessel. The form of the document and the particulars recorded in it shall be determined by the issuing country, but shall not comment on the quality of the seaman's work or wages. Generally this document is in a book form.

c) A Crew Member's Certificate issued in accordance with International Civil Aviation Organization (ICAO) specifications. ICAO specifications provide for a Crew Member's Certificate, approximately 6″ by 4″, showing particulars of name, address, date and place of birth, nationality or citizenship, name of the employing airline and description of duties, as well as a photograph and signature of the holder. Although the return of the holder to the territory of the issuing country is guaranteed, the certificate is valid for use only during the term of employment, and while actually serving, as a crew member.

d) A licence issued to airline flight crew personnel.

1.13 Red Cross travel documents

a) This document is included in Schedule VII, Item 1 (see IL 2). The Red Cross Travel Document is not governed by any conventions and neither determines nor affects the national status of the holder. While it is acceptable as a travel document, it is not an identification paper and visa and examining officers must otherwise satisfy themselves with the bearer's identity.

b) Immigration officers abroad may encounter provisionally approved immigrant applicants who do not hold and cannot obtain any other acceptable travel document. Such applicants do not require travel documents to immigrate if they are in a refugee or designated class. In other classes a senior officer has been delegated the authority to waive the requirements of R14(1). Nevertheless, the applicant may require a document to exit from their current country of location or to permit transit through countries on their way to Canada. Under such circumstances the immigration officer may refer the applicants to the local representative of the International Committee of the Red Cross who may issue a Red Cross Travel Document provided the following conditions apply:

   i) the applicant has no valid passport or travel document that would permit travel and no ability to obtain or renew such a document.

   ii) the Red Cross is assured that the applicant will be issued an immigration visa plus adequate documentation to transit all countries en route to Canada.

   iii) the Red Cross is assured that the applicant will have permission to depart the country in which they are currently located.

c) The Red Cross Travel Document is not an acceptable document for visitors to Canada.

1.14 Convention refugee travel documents

Convention Refugee Travel Documents guarantee the right of the holder to return to the issuing country. As a result, they meet the requirements of R14 for visitors and for immigrants. In addition, it does not prevent the applicant from making a refugee claim while in Canada. It, nevertheless, obliges the applicant to clearly establish that he or she has a well founded fear of persecution, not only in his/her homeland, but also in the country that issued the Convention Travel Document. The issuance of the document is a guarantee on the part of the issuing authority to protect and provide safe haven to the holder.

1.15 Group passports

A group passport is acceptable for visitor purposes only, provided it is issued to members of organized parties and athletic teams and if it complies with the following conditions:

a) it must be a valid travel document according to the law of the issuing country;

b) all persons named in it must be nationals of the country of issue;

c) no person named in it may be inadmissible for any reason;

d) it must be valid for a period of one day or more beyond the expiry date of any visa that will be issued ;

e) it must permit the re–entry to the country of issue of all persons named in it;

f) it must provide that all persons named in it will enter Canada and leave Canada as a group.

When a group passport is presented that does not seem to comply with the preceding conditions, the matter should be referred to the Director General, Enforcement Branch (NED), Immigration Headquarters for a decision.

1.16 Fictional passports and documents issued by non–existent territories

1.16.1 World service authority

"World Service Authority" passports are issued by Garry Davis, an expatriate American who is a self proclaimed "citizen of the world" and founder of the world citizen party. These passports are available to anyone who submits the purchase price. The "World Service Authority" is not considered to be a legitimate issuing authority and "World Service Authority Passports" are not valid for admission to Canada as a visitor or as an immigrant. The documents have a blue plastic cover with gold lettering. They bear the inscription "World Service Authority" and an oval map of the world. The word "passport" is written on the front cover in English, French, Russian, Chinese and Arabic.

1.16.2 Planetary passports

Planetary passports are issued by the World Federalists of Canada. They are blue in colour and the manufacture and printing are of good quality. These documents are not valid for admission to Canada as a visitor or as an immigrant.

1.16.3 International parliament for safety and peace

Passports of the International Parliament for Safety and Peace are allegedly issued on behalf of the Intergovernmental Organization of the States. These documents are not valid for entry to Canada as a visitor or as an immigrant.

1.17 Specific issuing authorities

1.17.1 Afghanistan

a) Passports issued by Afghanistan, which is not recognized by Canada, are considered to meet the requirements of Regulation 14(1)(a) and (3)(a). Visas, stamps and notations may be endorsed in these passports, subject or course to normal NARVIT visitor visa procedures.

b) Diplomatic or Special Passports are an indication that their bearers are travelling as representatives of the regime. Accordingly, such passports must not be visaed, stamped or endorsed in any manner as a precaution against recognition implications (see also IC 2, section 35, *Special Category Visitors – Non Recognized Regimes*).

1.17.2 China (People's Republic of)

Ordinary passports issued by the Public Security Bureau are acceptable travel documents for visitors or immigrants. "Public Affairs" passports issued by the Ministry of Foreign Affairs are the equivalent of an "Official" passport. As a result they are acceptable travel documents for visitors but they are not acceptable for immigrants. Potential immigrants holding "Public Affairs" passports are required to obtain ordinary passports before visas can be released to them.

1.17.3 Colombia

This country grants Colombian passports to non–nationals who invest significant sums of money there. These passports do not imply the recognition of Colombian nationality and, as such, they do not meet the requirements of R14. Colombian passports issued due to investments in the country are not valid for entry to Canada of visitors or immigrants.

1.17.4 Croatia

Passports issued by Croatia are recognized by Canada and meet the requirements of R14 for visitors and for immigrants.

1.17.5 Cyprus

a) Cypriot Passports

A Cypriot passport issued by the Government of Cyprus is valid for travel to Canada as a visitor or as an immigrant.

Cypriot passports issued or extended by the Turkish–Cypriot Administration in Cyprus are not valid for admission to Canada as a visitor or as an immigrant. In Cypriot passports issued by the Turkish–Cypriot Administration in northern Cyprus, the autonomous seal is almost identical to that used by the Government of Cyprus recognized by Canada. The main difference between the seals, easily noticeable upon examination, are :

i) The Republic of Cyprus seal bears inscriptions in Greek and Turkish, with the wording "Migration Office" in English.

ii) The Turkish Cypriot seal is in English and Turkish with the wording "Turkish Federated State of Cyprus".

b) Turkish passports issued by the Turkish embassy in Nicosia, Cyprus

To facilitate the travels of Turkish–Cypriots who cannot obtain valid Cyprus passports, The Embassy of Turkey in Nicosia issues them with ordinary Turkish passports. These are valid for travel to Canada as a visitor or as an immigrant.

1.17.6 Egypt

Travel Document for Palestinian Refugees

The Travel Document for Palestinian refugees does not, on its own, guarantee the return to Egypt of the holder. It is, accordingly, not, acceptable for travel to Canada as a visitor. If this document contains an Egyptian residency stamp that is valid beyond the travellers intended date of return to Egypt (it is suggested six months beyond), a visitor visa may be placed in it. This is not true in cases where the travel document has been issued by Egyptian authorities outside of Egypt or by a government other than the government of Egypt (e.g. in Gaza).

The Travel Document for Palestinian Refugees, issued by the government of Egypt, is valid for travel to Canada as an immigrant.

1.17.7 Hong Kong

a) Declaration of Identity

This is a one page document issued to non–residents of Hong Kong merely for visa purposes. These declarations are normally prepared by notaries public in Hong Kong for persons who do not have Hong Kong resident status. These documents are endorsed by Hong Kong immigration authorities as valid for re–entry to Hong Kong for two years. These documents are not acceptable for entry to Canada as a visitor or as an immigrant.

b) Certificate of Identity

This certificate is in passport format and is issued to stateless persons born in China who have resided in Hong Kong for at least seven years. This document should not be confused with the Hong Kong Declaration of Identity. The Certificate of Identity is acceptable for travel to Canada provided it otherwise complies with R14(1) and R13(3). It can be valid past 1997 but will not be renewed when it expires. It may guarantee re–entry to Hong Kong after 1997 and holders may be eligible for a Hong Kong Special Administrative Region (HKSAR) document after that date under certain conditions. It requires a visa in order to visit Canada.

c) Document of Identity

This document is issued to persons who have legally lived in Hong Kong for less than seven years. It does not guarantee the right to re–enter Hong Kong unless it has been endorsed with a re–entry stamp. Holders require a visitor visa to enter Canada. The document is only valid for entering Canada as a visitor when endorsed with a valid re–entry stamp plus visa. This document is a valid travel document for immigrants. Note that this document may be valid past 1997. Although it will not be renewed after 1997, the holder would be able to apply for a HKSAR document after that date provided they have not become citizens of another country.

d) British Dependant Territories Citizen Passport (BDTC)

This document is issued to person born in Hong Kong and to those naturalized as British Dependant Territories Citizens. The holder is a permanent resident of Hong Kong. Although it confers the right of abode in Hong Kong it does not confer nationality. The holder is, therefore, stateless. It is not valid past 30 June 1997 and is being phased out for obvious reasons. It is visitor visa exempt for travel to Canada as a visitor and is a valid travel document for immigration purposes.

e) British National Overseas Passport (BNO)

This document is designed to replace the BDTC passport and some Certificates of Identity for holders who have become naturalized as British Dependant Territories Citizens. Together with the Hong Kong permanent identity card this will provide the right of abode in Hong Kong. It does not confer nationality, therefore, the holder is stateless. Visas are not required to travel to Canada and the document is a valid travel document to visit or immigrate to Canada. This document may be valid beyond 1997 and is renewable past 1997. The rights conferred by this document, however, cannot be passed on to children. After 1997 it may guarantee re–entry to Hong Kong when combined with a permanent Hong Kong ID for those who are ethnic Chinese.

f) Hong Kong Special Administrative Region (HKSAR) passports

This document will be a subspecies of the Chinese passport and will confer both Chinese nationality and the right of abode in the HKSAR. It is not known at this time when it will first be issued or if it will be valid for travel to Canada as a visitor or immigrant, with or without a visa.

1.17.8 India

The Indian Certificate of Identity imposes three conditions to be met before readmission to India is guaranteed. The holder must obtain a "No Objection to Return" endorsement prior to leaving India. The holder must also obtain a visa to return to India from a mission abroad or from the Foreigners Regional Registration Office (FRRO) in India. Finally the holder must obtain the visa within a six month time limit. The Indian Certificate of Identity is valid as a travel document for visitors **only** if all three of these requirements have been met. Canadian visitor visa counterfoils should not be placed in any Indian Certificate of Identity unless all of the above mentioned requirements are met.

The Certificate of Identity is a valid document for immigration.

1.17.9 Iran

In the past forged or fraudulent Iranian passports have been abundantly encountered. Officers should examine these documents with care. If there is any doubt about the authenticity of the document being examined, the officer should refer to the appropriate enforcement manual such as the "Fraudulent Document Guide" or the "Passport Handbook " by Kluwerpers.

1.17.10 Korea, North

Although the North Korean regime is not recognized by Canada, valid passports are considered to meet the requirements of R14(1)(a) and R14(3)(a). The placing of a visa in an ordinary passport of a person who is a national of North Korea is not legally considered as an action

which constitutes recognition of this regime. The position with respect to diplomatic and special passports, however, is not as clear. Such passports are an indication that their bearers are travelling as representatives of a state and it is more difficult to say that they are regarded merely as identity documents. Accordingly, while ordinary passports may be endorsed with a visa and/or port of entry stamps, diplomatic or special passports **must not** be visaed, stamped or endorsed in any manner as a precaution against recognition implications (see also IC 2, section 35, *Special Category Visitors – Non Recognized Regimes*)

1.17.11 Lebanon

To be added.

1.17.12 Macedonia

Although Macedonia has not yet been formally recognized by Canada, regular passports issued by Macedonia meet the requirements of R14. Visitor visas may be placed in these documents for visitors but **must** be accompanied by the notation "Visa issuance does not/not imply recognition." These documents are also suitable for immigrants.

Official or Diplomatic passports issued by Macedonia do not meet the requirements for immigrants or visitors and visitor visa counterfoils **should not** be placed in these documents. When travel to Canada is to be facilitated officers must use an "Affirmation for visa" (IMM 1281).

1.17.13 Palestine

"Passport/Travel Documents" issued by the Palestine Authority are valid for entry to Canada by prospective immigrants. In addition, Canadian visitor visa counterfoils may be placed in these documents. Officers should note that there are two such documents. One is green and entitled "Passport/Travel Document". This is the equivalent of a tourist or ordinary passport. The second is burgundy and entitled "VIP Passport/Travel Document". This is the equivalent of an official or service passport. Given that the Palestinian mission in Ottawa is officially a "General Delegation" not an embassy, diplomatic visas should not be issued. Official or Courtesy visas may, however, be issued. These Palestinian documents are named in Schedule VII, items 1 and 2 of the Regulations.

1.17.14 Slovenia

Passports issued by Slovenia are recognized by Canada and meet the requirements of R14 as visitors and as immigrants. Citizens of Slovenia do not require visitor visas to visit Canada.

1.17.15 Sri Lanka

In the past, forged or fraudulent Sri Lankan passports have been abundantly encountered. Officers should examine these documents with care. If there is any doubt about the authenticity of the document being examined, the officer should refer to the appropriate enforcement manual such as the "Fraudulent Document Guide" or the "Passport Handbook" by Kluwerpers.

1.17.16 Switzerland

The Swiss Certificate of Identity is valid for one year and is issued to foreign residents of Switzerland who may or may not have permanent resident status. This document does not, on its own, guarantee re–entry to Switzerland. The document may contain a re–entry permit valid for

travel to Canada. The certificate of identity is renewable abroad under restricted conditions. Accordingly this document is **not** suitable for visitor purposes.

1.17.17 United States

Identification cards accepted by the United States. The United States has arrangements with several countries whereby citizens of these countries may enter the United States as visitors without a national passport. Such identification cards are **not** acceptable for admission to Canada, either directly from the United States or any other country. The fact that a person has a visa valid for return to the U.S.A. does not affect that person's ability to comply with the requirements of R14.

1.17.18 United Kingdom

The United Kingdom issues a large number of documents providing holders with a variety of immigration status conditions. Generally officers should note endorsements on pages 1 and 5 which will provide a basis for determining the British immigration status of the holder. The first item below refers to the British Visitors Passport. This is the only document referred to here that does not outwardly resemble a passport or travel document.

a) British Visitor's Passport

This document, which is in the form of a folded sheet of paper, does not meet the requirements of R14 for visitors or immigrants. The document is, accordingly, not valid for entry to Canada. Officers may wish to note that British visitor passports will not be issued after 31 December 1995 and will expire on or before that date.

b) British Passports

British passports are initially distinguished by an endorsement on page 1 as follows:

i) British Subject: Citizen of the UK & C

British authorities stopped using this designation in January 1983. As all British passports have a maximum validity of ten years, documents with this designation should no longer be encountered. These documents are further distinguished by as follows:

- Page 5 endorsement reading "Holder has the right of abode in the UK" and no other endorsements. This document was valid for travel to Canada as an immigrant or as a visitor. Visitors were visa exempt.
- Page 5 endorsement reading "Holder is subject to control under the Immigration Act 1971" and no other status indicator. Persons holding this document required a Minister's permit in order to enter Canada as a visitor or as an immigrant as this document was not valid for travel to Canada.
- Page 5 endorsement reading "Holder is subject to control under the Immigration Act 1971". In addition, the document also has an endorsement reading "Given leave to remain in the UK for an indefinite period". This document was valid for travel to Canada as an immigrant or as a visitor. The holder would require a visa to enter Canada as a visitor.

- Page 5 endorsement reading "Holder is entitled to readmission to the UK" with no other endorsements. This document was valid for travel to Canada as an immigrant and as a visitor. Visitors holding this document did not require visitor visas.

ii) British Citizen

Documents that are endorsed "British Citizen" on page 1 are valid for travel to Canada as immigrants or visitors. Visitors who hold this document do not require visas to visit Canada. Such passports appear in two formats, the traditional blue British passport and the newer red European Union British passport.

iii) British Overseas Citizen

These documents are further distinguished as follows:

- Page 5 endorsement reading "Holder is entitled to readmission to UK" with no other endorsement. This document is valid for travel to Canada as an immigrant or as a visitor. Visitors do not require visas.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" and there is a further endorsement that reads "Indefinite leave to remain in the UK". This document is valid for travel to Canada by immigrants or visitors, however, visitors would require visas.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" with no further endorsements. This document is valid for travel to Canada as a visitor or as an immigrant. Visitors, however, require visas.

iv) British: British Dependant Territories Citizen of _____

These documents are further distinguished as follows:

- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971 with no other endorsement. This document is valid for travel to Canada as an immigrant or as a visitor. Visitors do not require a visa.
- Page 5 endorsement reads "Holder has the right of abode in _____". This document is valid for travel to Canada as an immigrant or as a visitor. Visitors do not require a visa.

v) British Protected Person

These documents are further distinguished as follows:

- Page 5 endorsement reads "Holder is entitled to readmission to UK" and no other endorsements. This document is valid for travel to Canada as an immigrant or as a visitor. Visitors require a visa.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" and the document is also endorsed with: "Indefinite leave to remain in the UK". This document is valid for travel to Canada as an immigrant or as a visitor. Visitors require a visa and such visas should have a maximum validity of not more than 2 years.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" and there are no other endorsements. This document is not valid for travel to Canada as an immigrant or as a visitor. The holder will require a Minister's Permit to enter Canada.

vi) British Subject

These documents are further distinguished as follows:

- Page 5 endorsement reads "Holder has the right of abode in UK" and there are no other endorsements. This document is valid for travel to Canada for immigrants and visitors. Visitors require a visa.
- Page 5 endorsement reads "Holder is entitled to readmission to the UK" and there are no other endorsements. This document is valid for travel to Canada as an immigrant or as a visitor, however, visitors require visas.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" and there is the additional endorsement "Indefinite leave to remain in the UK". This document is valid for travel to Canada as an immigrant or as a visitor. Visitors require a visa and such visas should have a maximum validity of not more than 2 years.
- Page 5 endorsement reads "Holder is subject to control under the Immigration Act 1971" and there are no further endorsements. This document is not valid for travel to Canada as an immigrant or as a visitor. The holder will require a Minister's Permit to enter Canada.

vii) British National Overseas – See Hong Kong

c) Passport Isle of Man: British Citizen

Documents endorsed on page 1 "Passport Isle of Man : British Citizen" are valid for travel to Canada as immigrants and as visitors. Visitors do not require visas.

APPENDIX A
PASSPORTS ISSUED BY BRITISH AUTHORITIES

Endorsement P.1	Endorsement P.5	Other UK Status Stamps	Comments
1. a) British Subject: Citizen of UK & C	Holder has the right of abode in the UK	-----	Visa exempt
b) British Subject: Citizen of UK & C	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
c) British Subject: Citizen of UK & C	Holder is subject to control under the Immigration Act 1971.	Given leave to remain in the UK for an indefinete period	Visa Required
d) British Subject: Citizen of UK & C	Holder is entitled to re-admission to UK	-----	Visa Exempt
2. British Citizen	-----	-----	Visa Exempt
3. a) British Overseas Citizen	Holder is entitled to re-admission to UK	-----	Visa Exempt
b) British Overseas Citizen	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required
c) British Overseas Citizen	Holder is subject to control under the Immigration Act 1971.	-----	Visa Required
4. a) British: British Dependant Territories Citizen of _____	Holder is subject to control under the Immigration Act 1971.	-----	Visa Exempt
b) British: British Dependant Territories Citizen of _____	Holder has the right of abode in _____.	-----	Visa Exempt
5. a) British Protected Person	Holder is entitled to re-admission to UK	-----	Visa Required
b) British Protected Person	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required Maximum validity 2 years
c) British Protected Person	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
6. a) British Subject	Holder has the right of abode in UK	-----	Visa Required
b) British Subject	Holder is entitled to re-admission to UK	-----	Visa Required
c) British Subject	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required Maximum validity 2 years

d) British Subject	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
7. Passport Isle of Man British Citizen	-----	-----	Visa Exempt

APPENDIX B
PASSPORTS ISSUED BY BRITISH AUTHORITIES

Endorsement P.1	Endorsement P.5	Other UK Status Stamps	Comments
1. a) British Subject: Citizen of UK & C	Holder has the right of abode in the UK	-----	Visa exempt
b) British Subject: Citizen of UK & C	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
c) British Subject: Citizen of UK & C	Holder is subject to control under the Immigration Act 1971.	Given leave to remain in the UK for an indefinete period	Visa Required
d) British Subject: Citizen of UK & C	Holder is entitled to re-admission to UK	-----	Visa Exempt
2. British Citizen	-----	-----	Visa Exempt
3. a) British Overseas Citizen	Holder is entitled to re-admission to UK	-----	Visa Exempt
b) British Overseas Citizen	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required
c) British Overseas Citizen	Holder is subject to control under the Immigration Act 1971.	-----	Visa Required
4. a) British: British Dependant Territories Citizen of _____	Holder is subject to control under the Immigration Act 1971.	-----	Visa Exempt
b) British: British Dependant Territories Citizen of _____	Holder has the right of abode in _____.	-----	Visa Exempt
5. a) British Protected Person	Holder is entitled to re-admission to UK	-----	Visa Required
b) British Protected Person	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required Maximum validity 2 years
c) British Protected Person	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
6. a) British Subject	Holder has the right of abode in UK	-----	Visa Required
b) British Subject	Holder is entitled to re-admission to UK	-----	Visa Required
c) British Subject	Holder is subject to control under the Immigration Act 1971.	Indefinite leave to remain in the UK	Visa Required Maximum validity 2 years

d) British Subject	Holder is subject to control under the Immigration Act 1971.	-----	Possible consideration of Minister's Permit
7. Passport Isle of Man British Citizen	-----	-----	Visa Exempt

Citizenship and Immigration

Canada

Chapter OP 16 and IP 19

IMMIGRANT LOANS



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1 INTRODUCTION

1.1 What is this chapter about?

This chapter describes the Immigrant Loans Program (ILP) and its four loan components. It provides objectives and eligibility criteria for each loan option and outlines the procedures for processing and approving immigrant loans. This chapter also includes guidelines for assessing loans for approval as well as guidelines for counseling loan applicants.

2 PROGRAM DESCRIPTION

2.1 What are the components of the ILP?

The Immigrant Loans Program provides financial assistance, in the form of a loan, to eligible applicants. The program is comprised of four loan options that are described in the following sections:

Section 8 – the Right of Landing Fee (ROLF) loan

Section 9 – the Transportation loan

Section 10 – the Admissibility loan

Section 11 – the Assistance loan

2.2 Who is responsible for the ILP?

The Refugees Branch of national headquarters (NHQ) is responsible for the development and administration of the program. Where regional or mission specific instructions have been developed to supplement the guidelines, a copy must be provided to the Director, Resettlement Division (SRE), Refugees Branch.

2.3 Who is eligible to apply for a loan?

According to section R45, various categories of persons are eligible to apply for an immigrant loan. In practice, the majority of loans are approved for Convention Refugees and their family dependants, and members of the Humanitarian Designated Classes (HDC), who come to Canada, either with government assistance or through private group sponsorships, as part of the Annual Refugee Plan.

> ***Note:*** *As of 20 February 1997, certain categories of refugees who are selected abroad (i.e. single parent or large refugee families, women-at-risk and disabled refugees) who apply for an immigrant loan, may have access to the contribution fund from the Resettlement Assistance Program (RAP), formerly the Adjustment Assistance Program (AAP). Please refer to section 12 of this manual for further instructions.*

2.4 What loans are subject to interest?

All loans approved after 27 February 1995 are subject to interest provisions. The interest rate is set each January by the Department of Finance. Loans issued to Convention Refugees and members of the Humanitarian Designated Classes selected abroad are subject to a "grace–period" from interest which, depending on the size of the loan, may vary from one to three years.

2.5 Where can loans be obtained?

A person interested in obtaining a ROLF loan may apply for one in Canada at the Case Processing Centre (CPC) at Vegreville or abroad at the visa section of a Canadian mission. A transportation or admissibility loan may be obtained in Canada, by applying at an immigration office, or abroad, at a visa office. An assistance loan may be obtained by applying at the Settlement division of an immigration office. Further information on immigrant loans can also be obtained by contacting Call Centres (see APPENDIX A for a list of Call Centres across Canada).

3 LEGISLATIVE AUTHORITIES AND PROGRAM PRINCIPLES

The following basic parameters are intended to assist the designated officer[1], both abroad and in Canada, to exercise discretion in assessing applications for loan approval. (Operational guidelines for loan assessment and approval are found in section 6)

3.1 What are the legislative authorities?

When approving immigrant loans, the designated officer must respect and is subject to the following legislative authorities:

a) *Immigration Act*: sections 2, 3(c),(d),(f),(g) and (h), 6(1),(2),(3),(4) and (5), 114(1)(c),(d) and (t), 118, 119 and 121;

b) *Immigration Regulations*: sections 2, 45, 46, 47, and 48;

c) *Immigration Act Fees Regulations*: sections 26 and 27;

d) *Financial Administration Act*: sections 19.1 and 40;

e) Canadian Charter of Rights and Freedoms; and,

f) *Canadian Human Rights Act*.

3.2 What are the guiding principles?

The Immigrant Loans Program operates on an advance from the Consolidated Revenue Fund (CRF). The maximum amount that may be advanced from the CRF is set by Regulation. Loan repayments, on existing loan accounts, maintain the fund and are used to finance new loans.

The continued viability of the fund rests on the fulfillment of two governing policy directives:

a) that loans be approved only for those persons who can demonstrate the need for a loan; and,

b) that loans be approved only for those persons who can demonstrate the ability, or potential ability, to repay the size of the loan required.

3.3 What is the role of humanitarian and compassionate considerations?

Notwithstanding the above, in keeping with Canada's international obligations, the designated officer must also consider Canada's immigration commitments with respect to Convention Refugees and members of the Humanitarian Designated Classes brought to Canada from abroad for resettlement.

The challenge for the designated officer is to strike a balance between the principles of need and affordability, and the humanitarian and compassionate grounds that may require special consideration.

3.4 What are the administrative guidelines?

The following administrative guidelines set out the parameters and procedures to assist the designated officer in the delivery of the Immigrant Loans Program:

a) Guidelines to the *Financial Administration Act*;

b) Treasury Board Minutes: 771961 dated 23 July 1980; and 821486 dated 15 May 1994;

c) Treasury Board Manual: Chapters 3, 5 & 7;

d) Inland Processing (IP) Immigration Manual:

IP 1, Processing Undertakings in Canada

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1. Section 5 discusses who is a designated officer.

IP 2 , Processing Group Sponsorships

IP 3, Processing Refugee Applications for Landing

IP 12, Minister's Permits

IP 21, Guide to Refugee Travel to Canada;

e) Overseas Processing (OP) Immigration Manual:

OP 1, General Procedural Guidelines

OP 2, Processing Members of the Family Class

OP 4, Processing Refugees

OP 19, Minister's Permits;

f) Guidelines for Settlement Programs and Services (IT) Immigration Manual:

IT 12, Resettlement Assistance Program and Related Functions (to be available in the near future); and,

g) Immigration Reference Manual:

IR 5, Immigration Cost Recovery Processing;

h) Selection and Control Manual:

IS 3, Refugees and Humanitarian Classes Abroad

4 COUNSELING FOR LOAN APPLICANTS

The following guidelines are intended to assist the designated officer in providing counseling to loan applicants during the loan assessment and approval process:

4.1 What is the preferred language of counseling?

The loan agreement is a legally binding contract and may be used in court, when necessary, to collect outstanding loans. Legal Services recommends that, where possible, the designated officer counsel an applicant in his or her native language to ensure that the applicant is fully aware of, and understands the nature of the undertaking. A friend or relative fluent in the applicant's mother tongue and competent in one of Canada's official languages may act as an interpreter on behalf of the loan applicant.

4.2 What is the rationale for refusing a loan request?

A designated officer must clearly explain to the loan applicant the reason(s) why a loan request has been refused and must be ensured that the applicant fully understands the basis upon which this decision was made.

4.3 What are the terms and conditions of a loan?

a) Where a loan is approved, a designated officer must ensure that the loan applicant is fully aware of and understands the meaning and nature of the loan agreement (i.e IMM 0500, IMM 0501 or IMM 5355) which he or she has signed. The loan applicant's legal responsibilities and obligations, with respect to the terms and conditions for the repayment of the loan and the application of interest, must be clearly explained (refer to section 7)

b) In order to preclude any misunderstandings that the loan applicant may have, the designated officer will refer to the reverse–side of the loan agreement which describes the terms of the loan agreement and provides the information that the designated officer needs to counsel the loan applicant (see APPENDIX B for a sample copy of loan agreement forms).

4.4 What is the role of collection agencies?

A designated officer should also inform the loan recipient that CIC may refer accounts to private collection agencies if the account is in arrears either because of missed payments or insufficient payment, or if the loan holder cannot be located. Therefore, the loan holder should be encouraged to keep in contact with Collection Services at NHQ using the toll–free number on the reverse–side of the loan agreement.

The conditions under which a loan account may be referred to a private collection agency may vary; however, non–payment of the loan account or an unreported change of address by the loan recipient could be reasons for a referral to be made to a private collection agency (refer to section 16).

5 SIGNING AND APPROVAL AUTHORITY

5.1 Loan agreements

a) Full authority to sign loan agreements (Forms IMM 0500, IMM 0501 and/or IMM 5355) for a combined loan maximum of CDN $8,000 may be delegated by the Minister to the immigration or visa officer. For the purposes of the Immigrant Loans Program, designated officers are immigration and visa officers, Resettlement Assistance Program (RAP) counselors, and, for the purposes of section R47, collection officers in Collection Services, Finance, at NHQ. Signing authority is designated to the CR–5 level (officer assistant) **for the Right of Landing Fee (ROLF) only**.

b) The authority to approve immigrant loans over CDN $8,000 is delegated to the Immigration Program Manager for visa offices abroad and Managers of admissions and settlement services at immigration offices in Canada.

Note: *For immigrant loans approved since 1990, CIC must locate the funds to cover bad debts from within its operational budget.*

c) By authorizing a loan agreement, the designated officer certifies to the following:

(i) that all relevant statutes, regulations, orders–in–council, Treasury Board and departmental directives have been complied with;

(ii) that, in accordance with Section 40 of the *Financial Administration Act*, the approved loan is legally chargeable against the account; and,

(iii) that, in accordance with Section 40 of the *Financial Administration Act*, there are funds available within the appropriation to meet the expenditure. Notification will be sent by the Director, Resettlement Division, Refugees Branch, should there be a problem with the funding level.

d) When duly signed by the loan applicant in the presence of a designated officer, the IMM 0500 form – Immigrant Loans (Right of Landing Fee Loan, Transportation Loan, Admissibility Loan), the IMM 0501 form – Immigrant Loans and Undertaking to Repay and/or the IMM 5355) form – Immigrant Loans (Assistance Loan), are considered **legal documents** (see APPENDIX B for sample copies of the IMM 0500, IMM 0501 and IMM 5355).

e) By signing a loan agreement, the loan applicant certifies to the following:

(i) that he or she is of legal age of majority (18 years of age or older);

(ii) that he or she understands the terms and conditions associated with the loan agreement; and,

(iii) That he or she will comply with the stated terms and conditions for loan repayment.

6 GUIDELINES FOR LOAN ASSESSMENT AND APPROVAL

6.1 Introduction

a) The following guidelines are intended to assist the designated officer in exercising his or her discretion when assessing loan applications for approval. Guidelines take into consideration policy initiatives developed to effectively administer the Immigrant Loans Program. As such, the guidelines serve as a statement of general policy and intent.

b) Notwithstanding the above, the onus still rests with the loan applicant to provide evidence which satisfies the designated officer that the applicant's personal circumstances demonstrate a need for the loan and an ability (or potential ability) to repay the loan.

6.2 What are the loan assessment and approval criteria?

The following are factors that a designated officer should consider when assessing a loan application:

6.2.1 Can the applicant demonstrate the need for a loan?

a) **Financial Situation**

In determining a loan applicant's demonstrated need for a loan, a designated officer is required to assess the applicant's ability or potential ability to repay the loan requested. In Canada, an assessment of the applicant's monthly income, monthly expenses and other assets and liabilities, if available, will give a designated officer a general snapshot of the applicant's actual financial situation and his or her potential ability to repay the loan. Abroad, as the visa officer will not be able to assess the monthly income and expenses, an assessment of the applicant's ability to find employment and the type of employment that he or she is most likely to find can be made.

b) **Access to Other Lending Institutions**

The Immigrant Loans Program is to be viewed as the lender of last resort. The in–Canada loan applicant normally has access to other lending institutions[2]. Before approving a loan, the designated officer should determine whether the in–Canada applicant has first attempted to approach another lending institution. A letter of refusal from a lending institution would indicate that the in–Canada applicant has tried to obtain a loan elsewhere.

A designated officer should encourage the in–Canada applicant to apply for a loan at other lending institutions in the following cases:

(i) if the loan applicant is a permanent resident who has been in Canada for three years or more and is able to work; and,

(ii) If the loan applicant possesses assets such as stocks and bonds, real estate, savings, RRSPs or other securities (in more than a nominal quantity) which could be liquidated or used as collateral to obtain a loan.

If either of these circumstances apply to the in–Canada applicant, the designated officer should consider a loan refusal.

c) **Consideration of Immigrant Classes**

Certain immigrant classes, such as sponsored members of the family class, the independent immigrant class, and the entrepreneur or investors class, suggest that financial assistance is not required by their very definition or by the terms and conditions which apply to these classes.

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2. It is understood that the loan applicant abroad, who is a Convention Refugee or member of the Humanitarian Designated Classes selected by Canada, is not in a position to obtain a loan from traditional sources.

For instance, in the case of a member of the family class, the sponsor must satisfy an immigration officer that sufficient financial resources exist on behalf of the person(s) being sponsored, and must demonstrate that he or she has the ability to meet the basic needs of sponsored persons without relying on social assistance. To request an immigrant loan in order to fulfil the sponsorship undertaking could contravene the terms of the agreement, **except in the case of a spouse and dependant children under 19 years of age.**

Independent immigrants, on the other hand, are selected on the basis of their ability to become successfully established in Canada. Independent immigrants are thus, expected to have sufficient resources to meet their needs without having to require an immigrant loan.

Likewise, immigrants applying under the entrepreneur class are selected on the basis of their ability to make a significant contribution to the Canadian economy. Immigrants applying under the investors class are required to make a capital investment that will create or continue employment for Canadian citizens or permanent residents. Immigrants applying under the entrepreneur or investor class would, therefore, not be expected to require the type of financial assistance provided under the Immigrants Loans Program.

a) Special Needs Refugees

As of 20 February 1997, certain categories of refugees which are selected abroad (i.e. family units with different size and/or composition such as single parent or large refugee families, the elderly, women-at-risk and disabled refugees) who apply for an immigrant loan may be granted access to a contribution from the Resettlement Assistance Program (RAP). Please refer to section 12 of this manual for further details.

d) **Insufficient Savings Can Equal a Demonstrated Need**

In certain instances, a designated officer may be called upon to assess a loan application where the loan applicant is employed and has some savings but not enough to pay the Right of Landing Fee, such as in the case of a live-in caregiver with limited savings and steady employment. This situation suggests that the loan applicant may well be in need of a loan even though he or she has savings. In this case, the demonstrated ability to save may be rightfully interpreted as a potential ability to repay the loan. The designated officer should consider this possibility in the assessment of the loan application along with the size of the loan requested.

6.2.2 Does the applicant have the potential ability to repay the size of loan required?

a) **Potential Ability to Repay**

The loan applicant's ability (or potential ability) to repay the loan is the second consideration a designated officer needs to determine when assessing a loan application. The potential ability to repay the loan, however, is more difficult to evaluate as it involves weighing many contributing factors. The designated officer's sound judgment and discretion are essential to evaluate an applicant's ability or potential ability to repay a loan.

b) **Income Potential**

In order to determine whether the applicant has the means to repay the loan, the designated officer needs to determine the income or income potential of the applicant and all of his or her family dependants over the age of 19.

c) Contributing Factors

In assessing the income potential of the applicant, a designated officer **should also consider a combination of any of these relevant factors:**

(i) the applicant's actual and potential ability to earn income;

Note: *For the in–Canada loan applicant, the actual and potential ability to earn income should be considered in relation to the actual time it takes to establish a loan after approval in–principle at CPC Vegreville which, on average, takes 6 months.*

(ii) the applicant's other financial obligations (i.e. number of family dependants, outstanding debts, other liabilities, etc.);

(iii) whether the applicant currently has a capacity to use one of Canada's official languages;

(iv) whether the applicant currently has stable employment and/or transferable skills;

(v) whether the applicant is currently unemployed and requires extensive retraining (eg. 2 years or more) or additional education before he or she can successfully compete in the open labour market; and,

(vi) whether the applicant's employability is temporarily or permanently restricted because of a serious medical problem or long–term illness.

6.2.3 What are other considerations?

In examining contributing factors, the designated officer **may need to consider other issues, which may be significant in the assessment of the applicant's income potential.**

Note: *If the refugee is a special needs case, please refer to section 12*

a) **Age**

An applicant's age is not a stand–alone factor in determining whether an applicant's loan application should or should not be approved. However, for the purpose of the Immigrant Loans Program, **a person must be 18 years of age or older in order to contract for the repayment of a loan.**

The designated officer should always consider other important factors in combination with the applicant's age when assessing a loan application. For instance, the applicant's intent and ability (or potential ability) to enter the labour market, the applicant's potential ability to repay the loan given his or her participation in the labour market, and the applicant's assets derived from other than labour market sources (such as stocks and bonds, savings, RRSPs, securities or real estate).

b) **Ability to Speak One of Canada's Official Languages**

Similarly, the level of language competency in one of Canada's official languages is not a stand–alone factor in determining whether a loan application should or should not be approved. The level of a person's language competency, however, is an important consideration in determining an applicant's ability or potential ability to enter the labour market. The level of language competency should be viewed, therefore, in combination with other factors (such as health and age) when assessing a loan application.

When considering the impact that the level of language competency will have on an applicant's ability to enter the labour market, the designated officer should also consider the provisions available, under R47(2), for the deferral of loan payments for Convention Refugees and immigrants. This provision allows for more flexibility in borderline cases (see section 16).

An applicant registered in a language course, in order to enhance his or her ability to enter the labour market, in itself, should not be viewed negatively if the applicant is a recent arrival and the course is of less than two years duration. However, applicants who have been in Canada a year or more and are registered in a course of

study of two or more years duration, may not demonstrate the potential ability to repay within a reasonable time frame.

c) **Applicant's Level of Education**

An applicant's level of education needs to be assessed against an applicant's ability (or potential ability) to repay a loan. An applicant with a minimum level of education and few marketable job skills, for instance, may be restricted in the type of employment he or she is able to obtain and in the wages he or she is expected to earn.

Short delays in the repayment of a loan resulting from vocational training should not necessarily be viewed as a detrimental factor in the course of assessing a loan application. This is especially true if it is evident that the course of study will enhance the applicant's employability or potentially increase his or her wages.

d) **Applicant's Employment History**

An applicant's link to the labour market may demonstrate that he or she has the necessary skills to continue being employed in the Canadian labour market. This would especially be true where the applicant's employment history indicates consistent employment and progressive career advancement. An applicant's employment history may also demonstrate diverse or transferable skills. This may suggest that the applicant can easily adapt to a changing job market, thus enhancing his or her ability to maintain or find employment.

e) **Receipt of Social Assistance**

A loan applicant who is receiving some form of social assistance should not automatically be disqualified from receiving a loan. A designated officer should assess the loan application according to the particular circumstances of the case. The assessment should clearly examine the reasons behind the applicant's need for social assistance such as whether the social assistance is a long–term or a temporary situation, and whether the loan applicant is making a real effort to return to the labour market.

f) **Number of Family Members**

The number of family members should be considered when assessing an applicant's potential ability to repay. The number of family dependants is likely to increase the applicant's financial obligations, hence to decrease the availability of funds for the repayment of a loan. This, however, may not always be true as the applicant may have sufficient income to support his or her needs and those of his or her family dependants, as well as enough funds to repay the loan.

It is also possible that the loan applicant can anticipate additional financial support from income earned by family dependants. The expected earnings would consequently contribute to the applicant's overall income and the amount of money available to repay the loan [see section 6.2.2b) above].

> ***Note:*** *Special needs refugees, such as large refugee families, may be granted access to a contribution from the Resettlement Assistance Program. Please refer to section* 12 *for more details.*

g) **Motivation/Initiative**

The personal initiative taken by an applicant to become job–ready may be a significant factor in the assessment of a loan application. Although difficult to measure, all personal initiatives including volunteer work, part–time work during studies and courses taken which enhance an applicant's ability to compete in the labour market, should be weighed against the applicant's potential ability to repay a loan.

h) **Humanitarian and Compassionate Factors**

As a general rule, the loan assessment should not be solely based on humanitarian and compassionate factors. Nevertheless, factors, such as the danger to one's life or liberty, may have a positive influence, especially in borderline cases, where a designated officer may be inclined to refuse a loan application.

> ***Note:*** *Special needs refugees, such as women-at-risk, may be granted access to a contribution from the Resettlement Assistance Program. Please refer to section 12 for more details.*

i) **Size of Loan Requested**

The size of the loan requested is an important factor to consider when assessing the applicant's financial status. All loans over CDN $4,800 issued as of 28 February 1995, for example, must be repaid within sixty months of issuance. On the basis of simple calculations, a loan in the amount of CDN $8,000 which has been granted a "grace period" from interest of thirty–six months, would require a repayment schedule of more than CDN $150 per month.

As a general rule, the size of the potential loan requested should not exceed the applicant's ability to meet his or her financial obligations. The designated officer may, therefore, consider refusing a loan request if it is clear that an applicant's financial obligations will not permit him or her to honour the repayment schedule, even if provisions for the deferral of loan payments set out in R47(2) are included (see section 16).

j) **Current Debt Load**

The applicant's current debt load, including previously approved loans, must be taken into account in determining the applicant's potential ability to repay an additional or an increased loan amount.

Before approving a loan, the designated officer should verify if the applicant has any other existing or outstanding ROLF, transportation, admissibility or assistance loans. **This can be confirmed through the Immigration Program Accounts Receivable (IPAR) system or with Collection Services, NHQ at 1–800–667–7301. Offices in the Ottawa/Hull area may call (613) 941–0664.**

Where the loan applicant already has an existing loan, the designated officer should determine, with Collection Services, that the applicant's payment record on the existing loan is in good standing before approving a subsequent loan.

Where an existing loan is in default, the designated officer should not approve an additional loan until Collection Services advises that an acceptable repayment schedule has been negotiated with the loan applicant.

6.2.4 Loan assessment worksheet

a) APPENDIX C provides an outline of a loan assessment worksheet that can be adapted for use by the designated officer when assessing a loan application for approval.

b) The designated officer may also find it useful to ask **applicants in–Canada**, who submit an application for a transportation loan, to complete a **preliminary questionnaire** before appearing at the immigration office. The questionnaire will provide the designated officer with information on the applicant's employment background and the applicant with details about the type of documents that must be presented in order to substantiate the request for a loan. A sample questionnaire, based on the one used for the completion of a ROLF loan application kit, is included in APPENDIX D.

7 LOAN TERMS AND CONDITIONS

7.1 Introduction

Sections A114 and A119, and sections R2 and R45 to R48 set out the terms and conditions for immigrant loans. These sections are paraphrased on the reverse–side of the IMM 0500, IMM 0501 and IMM 5355 forms (see APPENDIX B for sample copies of the forms).

The following are the **main terms and conditions** for the issuance of immigrant loans:

7.2 Interest–bearing and interest–free loans

a) All loans, ***including loans to Convention Refugees***, approved as of 28 February 1995, will accrue interest. The interest is calculated on the unpaid balance of the loan account.

b) In the case of a loan where payments have been deferred in accordance with R47(2), interest will continue to accrue during this period.

c) Interest–free loans approved before 28 February 1995 will remain interest–free. New loan options added to an existing interest–free loan account will also remain interest–free.

7.3 Application of interest for Convention Refugees and members of the Designated Class selected abroad

a) Convention Refugees selected abroad and members of the class of persons designated under section A114(1)(d) **are subject to a grace–period from interest which may vary between one to three years,** depending on the size of the loan [see R48(1.1)].

b) The rate of interest in effect at the time the loan was approved is the **rate that will be applied on the balance of the loan at the end of the grace period from interest and will be** computed as follows:

(i) the **first day of the thirteenth** month after the person's landing in Canada, where the amount of the loan is **not more than $1,200**;

(ii) the **first day of the twenty–fifth** month after the person's landing in Canada, where the amount of the loan is **more than $1,200 but not more than $2,400**; or,

(iii) the **first day of the thirty–seventh** month after the person's landing in Canada, where the amount of the loan is **more than $2,400**.

7.4 Application of interest for all other eligible persons

a) Immigrant loans issued to **all other eligible persons under section R45**, bear interest at a rate which is charged according to R48(1), depending on the type of loan approved.

b) The rate in effect at the time the loan was approved is the rate that will be applied, and is computed as follows:

(i) **in the case of a transportation loan or an admissibility loan, *30 days after*** the day on which the person for whose benefit the loan is made arrives in Canada;

(ii) **in the case of an assistance loan, *30 days after*** the day on which the proceeds of the loan are paid to or for the benefit of the immigrant; or,

(iii) **in the case of a Right of Landing Fee (ROLF) loan, once the earlier of either condition a) or b) above is met**.

7.5 Interest rates on subsequent loans

a) **If a loan recipient obtains a subsequent loan and the previous loan has not yet been repaid,** the rate of interest on the subsequent loan amount will be the same as the original loan. **If the previous loan has been repaid and a new loan is granted,** the interest rate in effect on the date the new loan is approved will apply [see R48(2)].

b) In the case where the "grace–period" is still in effect on a loan, the addition of a subsequent loan may result in the extension of the grace–period. However, the grace–period will not exceed three years from the date of the person's arrival in Canada.

c) In the case where a loan is paid in full, the loan applicant should be considered as having established himself or herself in Canada and, therefore, should be charged the rate of interest applicable to all other immigrants for any subsequent loans. If the loan applicant has been in Canada for a number of years, careful consideration should be given to whether the loan applicant needs a subsequent loan and if he or she can obtain a loan from a traditional lending institution (see section 6).

d) To determine if any outstanding loans exist, the designated officer should contact Collections Services, Finance at NHQ, at 1–800–667–7301 or (613) 941–0664.

7.6 Notification of the interest rate established for the calendar year

a) The interest rate is established each calendar year in January by the department of Finance and is effective the first day of January. The established interest rate is based on the rate the Government of Canada charges for loans made to Crown corporations. APPENDIX E lists the interest rates established in the last ten calendar years.

b) Each year on the first working day following the first of January, the Director, Resettlement Division, Refugees Branch, will inform the Director General, Finance and Administration, the regional Directors General, the regional headquarter Directors and the Department of Foreign Affairs and International Trade, and will provide copies of the new interest rate established for the calendar year to Regional Directors.

c) **The various regions, including the international region, are responsible for ensuring that their respective field operations are aware of the interest rate established for the new calendar year immediately upon receiving notification from NHQ.**

7.7 When do loans come into effect?

In accordance with the provisions set out in subsection R46(1), loans come into effect as follows:

a) **In the case of transportation and admissibility loans,** ***one month after*** the person, for whose benefit the loan was made, arrives in Canada;

b) **In the case of the assistance loan,** ***one month after*** the person benefiting from the loan has been issued the loan; and,

c) **In the case of the Right of Landing Fee loan,** ***once the earlier of either condition a) or b) above is met.***

7.8 Notification of change of address

a) **A loan recipient must notify Collection Services at NHQ of any change of address within ten (10) calendar days.** The loan recipient may report a change of address as follows:

(i) in person or in writing to either: 1) the immigration authorities in the immigration office in the area in which he or she is residing; 2) Collection Services, Finance, at NHQ, Jean Edmonds North Tower, 3rd Floor, 300 Slater St., Ottawa, Ontario, K1A 1L1; or,

(ii) by telephone, by calling Collection Services toll–free at 1–800–667–7301.

b) A loan recipient must quote his or her loan account and social insurance number (SIN) in all correspondence.

c) An immigration office, which receives any new information on a loan recipient, must notify the Chief, Revenue Accounting, Finance at NHQ.

Note: *For information on loan terms and conditions in relation to the repayment of loans, consult section* 16

8 RIGHT OF LANDING FEE (ROLF) LOAN

8.1 Introduction

a) The Right of Landing Fee (ROLF) was introduced as part of the budget announcement of 27 February 1995, under the authority of Section 19.1 of the *Financial Administration Act.*

b) The Right of Landing Fee is a fee for receiving the privilege of permanent residence in Canada.

c) The landing fee is payable by ***every person 19 years of age and over*** who applies for permanent residence, whether at a post abroad or in Canada. Every person seeking landing is required to pay regardless of nationality, ethnic origin or immigrant class.

8.2 Objective of the ROLF loan

a) The ROLF loan enables persons 19 years of age and over to borrow funds in order to pay the landing fee.

b) An approved ROLF loan covers the full amount of the landing fee which is applicable in a loan application. The landing fee requirement cannot be partially met by payment and by loan.

8.3 Eligible clients

a) Section R45 lists the categories of persons who are eligible to apply for a ROLF loan.

b) **In Canada**, eligible applicants include:

- Convention Refugees
- Members of the post–determination refugee claimants in Canada class (PDRCC)
- Live–in Caregivers (LIC)
- Family–class sponsors for their dependants

c) **Outside Canada** eligible applicants include:

- Convention Refugees (including special needs refugees)
- a sponsor's family dependants living abroad
- all members of the Humanitarian Designated Classes (HDC)

d) **For the purposes of the Immigrant Loans Program, family dependants include the spouse, dependant children under 19 years of age and the children's dependants under 19 years of age** (refer to the definition of "dependant" in Section R2).

e) The landing fee also applies to persons in Canada, in possession of a Minister's permit, who are criminally or medically inadmissible and in a position to submit an application for landing.

f) The sponsor in Canada with dependants living abroad is responsible for obtaining a ROLF loan on behalf of his or her dependants and for the payment of the loan. The ROLF loan will be processed at the time an undertaking of assistance (sponsorship) is submitted or at the time that family members living abroad are ready to be landed (see Procedures for processing the ROLF loan below).

> ***Note:*** *CIC officers are to encourage sponsors to pay the ROLF up front in order to facilitate processing.*

8.4 ROLF refund

a) The landing fee will be refunded to the loan applicant who has paid the fee but has not successfully landed in Canada. An unused immigrant visa can be returned for a refund of the landing fee (see procedures for processing the ROLF loan below).

b) The landing fee should not be confused with processing fees (i.e. cost recovery fees) for immigration services. Processing fees are required from **visitor applicants** as well as **immigrant applicants**, and are not refunded even if the application is refused.

Note: *There is no loan option for cost recovery fees.*

8.5 Signing and approval authority

Signing authority has been designated to the CR–5 level (officer assistant) for the Right of Landing Fee (see section 5).

8.6 Documentation

a) The IMM 0500, form may be used to approve a ROLF loan (see APPENDIX B for a sample copy).

b) The ROLF loan may be processed in conjunction with the transportation and/or admissibility loan, in order to process, from abroad, the landing of family dependants of immigrants who are Convention Refugees or members of the Humanitarian Designated Classes (see section 15).

c) Procedures for processing the IMM 0500 and/or IMM 0501 are included in section 14

8.7 Procedures for processing the ROLF loan

Procedures for processing the ROLF loan are summarized, in detail, in the ROLF loan process flow charts included at the end of this section.

The following highlights the procedures that have been established for processing the ROLF loan:

8.7.1 What is the timeline for approving a ROLF loan?

a) There is no legislative timeline to determine when a ROLF loan application, which has been approved–in–principle by the CPC Vegreville, ceases to be valid. A person who has been determined to be a Convention Refugee, however, has 180 days within which to apply for landing as a refugee from the date of the determination of the Convention Refugee claim from the Immigration and Refugee Board (IRB).

b) In order to encourage a loan applicant to submit his or her application for landing (AFL) expeditiously, following the approval–in–principle of a ROLF loan, the validity of the approval–in–principle for the ROLF loan has been administratively set at 180 days.

c) The designated officer at an immigration office may use discretion and continue to honour a loan approved–in–principle by the CPC Vegreville without re–evaluating the person's financial status if the loan applicant presents himself or herself **for landing up to 90 days after** the 180–day administrative timeline established in section b) above.

8.7.2 In–Canada clients: processing the ROLF loan at CPC Vegreville

a) When a ROLF loan application is received at CPC Vegreville, a designated officer will review the loan application and determine whether the loan application should be approved in–principle, refused or returned to the client.

b) The designated officer will notify the client and explain why the loan application has been refused or returned, or indicate that the loan application has been approved.

c) The designated officer will enter the appropriate WIP entry code into the CPC system indicating whether the loan application has been approved, refused, or returned.

d) In the case where a loan is approved in–principle, the designated officer will insert the alpha code "**LLA**" for "right of landing loan approved" in the remarks section of the IMM 1000 form (Immigrant Visa and Record of Landing form) before it is electronically forwarded to the appropriate immigration office for landing (see APPENDIX B for a sample copy of the form). This will assist immigration officers to identify those clients who have requested a loan at the time of landing and will allow immigration officers to take the necessary steps to process these clients.

e) The following are other alpha codes which may be entered in the remarks section of the IMM 1000 form for in-Canada clients:

LFC - Right of Landing Fee paid in Canada

LFN - Right of Landing Fee not applicable (for applications for permanent residence or undertakings received prior to implementation)

LFD - Right of Landing Fee payment deferred (for Convention Refugees and members of the Humanitarian Designated Classes who have a pending decision on a loan, and for A114(2) cases in Canada who have a pending approval-in-principle on a loan).

8.7.3 In–Canada clients with Family members abroad: Finalizing the ROLF loan agreement at the immigration office

a) When an in–Canada loan applicant is ready to be landed, the immigration office will contact the loan applicant for an interview and will provide loan counseling, explaining the applicant's obligations according to the terms and conditions described on the reverse–side of the IMM 0500 (see sections 7 and 16.

b) Once the loan applicant has been counseled, both the applicant and the designated officer must sign the loan agreement (IMM 0500).

c) **When completing the IMM 0500, the designated officer must notify the loan applicant about the rate of interest applicable for the appropriate calendar year** (See APPENDIX E for the interest rates established in the last 10 calendar years); the rate of interest which will be applied to the loan will appear on the first statement of account mailed to the loan holder by CIC.

d) The designated officer will then enter the WIP entry code T1031 into the CPC system indicating that the ROLF loan agreement has been signed.

8.7.4 Sponsors of Family class members: Finalizing the ROLF loan agreement at the immigration office

Step One: At CPC Vegreville

a) In the case of an undertaking of assistance (sponsorship), the ROLF loan process is a two–step process. The first step requires CPC Vegreville to approve the loan in–principle and to notify the sponsor that he or she will be contacted by the immigration office for an interview.

b) The immigration office will contact the sponsor for an interview and provide loan counseling, explaining the sponsor's obligations according to the terms described on the reverse–side of the IMM 0500 (see section 4).

c) Once the sponsor has been counseled, both the sponsor and a designated officer must sign the loan agreement (IMM 0500). **Please note that the sponsor must sign the loan agreement *before* submitting an undertaking of assistance (sponsorship) to CPC Mississauga.**

d) The designated officer will notify the sponsor about the rate of interest applicable for the calendar year and create an NCB entry into the FOSS system to indicate that the ROLF loan agreement has been signed on behalf of family dependants living abroad.

e) **The designated officer will provide to the sponsor** copy 2 and 3 of the signed IMM 0500 form.

Step Two: At CPC Mississauga

f) The second step requires the sponsor to submit a completed IMM 1344 application (Undertaking of Assistance) with copy 3 (file copy) of the **signed** IMM 0500 to CPC Mississauga. The sponsor may keep copy 2 of the signed IMM 0500 for his or her own records.

8.7.5 Forwarding copies of the IMM 0500 to NHQ Finance

a) The flow chart also indicates the established lines of communication with Revenue Accounting, Finance at NHQ which will ensure that the loan account is established, the payment of the ROLF loan is initiated, and that a refund is provided to the loan applicant who has been refused admission into Canada.

b) For the application for landing received in Canada, upon receipt of a copy of the signed loan agreement IMM 0500, Finance at NHQ will establish a ROLF loan account in the Immigrant Programs Accounts Receivable (IPAR) system. Finance will initiate billing of the loan account after verifying that the loan applicant (proposed immigrant) has been landed.

c) Where the ROLF loan is requested for family members living abroad, loan accounts for the sponsor's family dependants will be established under the name of the sponsor once his or her dependants have landed. Finance at NHQ will establish the ROLF loan account under the name of the sponsor and will initiate billing under the name of the sponsor upon receiving copy 1 of the signed IMM 0500, from the appropriate immigration office.

8.7.6 ROLF refunds: Refused undertakings of assistance (sponsorship)

a) In the event that an undertaking of assistance (sponsorship) submitted by a sponsor has been refused or cancelled, the sponsor has the right to request an appeal to the decision from the Immigration and Appeal Division (IAD) of the Immigration and Refugee Board.

b) The visa office is responsible to notify the sponsor, **in writing,** when a family class sponsorship has been refused or cancelled, and to inform the sponsor of his or her right to appeal the decision.

c) The visa office will be required to notify Revenue Accounting, NHQ to either refund the ROLF fee or cancel the loan agreement for the sponsor who is not seeking to appeal the decision or for the sponsor whose appeal has been dismissed, and/or to establish a loan agreement for the sponsor whose appeal has been granted. A copy of the written request for a ROLF refund and, if applicable, the IAD decision to uphold the refusal, will be forwarded by the sponsor to Revenue Accounting.

d) The same procedures for refunding the ROLF will apply should the undertaking of assistance (sponsorship) be withdrawn by the sponsor.

e) Procedures for processing ROLF refunds also apply to an immigrant who, upon arriving at a Canadian port of entry with a completed IMM 0500, is reported inadmissible and is subject to a removal order (and, if appealed, the decision to remove the person has been upheld by the Immigration Appeal Division.

8.7.7 Establishing a client file at NHQ records

The CPCs, local immigration or visa offices, the IOM or the loan applicant will forward all original copies of loan agreements established for each loan applicant to Finance at NHQ. After reviewing loan agreements received, Finance will forward this documentation to Records at NHQ. Records will establish a loan applicant file (i.e. "**TL**" file) which will bear the loan agreement number and the full name of the loan applicant. The loan applicant file will include the original copies of signed loan agreements (IMM 0500 and/or IMM 0501) and any correspondence dealing with the loan request.

9 TRANSPORTATION LOAN

9.1 What is the objective of the transportation loan?

The objective of the transportation loan is to help people obtain transportation for themselves or their family dependants to their place of final destination. It can also help pay for living expenses during the journey.

9.2 What clients are eligible?

a) Section R45 lists the categories of persons who are eligible to apply for a transportation loan.

b) Eligible applicants must be 18 years of age or older and include:

(i) immigrants;

(ii) Canadian citizens or permanent residents who are seeking financial assistance for their family dependants who are seeking landing in Canada;

(iii) Persons who are seeking landing;

(iv) Persons in possession of a Minister's permit; and,

(v) Convention Refugees or members of the Humanitarian Designated Classes who are seeking resettlement in Canada for themselves and/or their family dependants.

9.3 What expenses are eligible?

Types of expenses which may be covered include:

a) the costs of travel by the most direct route at the most economical rate available;

b) charges for any transportation tax (for example, toll or airport tax);

c) approved service fees from the International Organization for Migration (IOM); and,

d) inland transportation costs which may include meals enroute, overnight accommodation, ground transportation and incidental expenses.

In the case where inland transportation is required and inland transportation costs have not been pre–arranged overseas, these costs may be approved at a Canadian port of entry.

Costs for accommodation and meals are provided as a **contribution** for government–assisted refugees in need of a stopover at a Canadian port of entry (see IP 21 or OP 4).

9.4 What expenses are NOT eligible?

Types of expenses which are not covered include:

a) Baggage in excess of the carrier's free baggage allowance. Visa offices, the IOM and others making travel arrangements on behalf of refugees must counsel passengers on the pieces of luggage, weight and dimensions allowed per person travelling to Canada.

b) Costs for shipping of personal and household effects

c) Prohibited items which may not be brought into Canada which include plants, vegetables, fruit and meat, and products of these items that might harbour pests or diseases harmful to people, livestock, crops or forests. Visa offices and the IOM should make refugees aware of Canada's rules regarding all items that cannot be brought into Canada.

d) Transportation of animals (domestic pets or livestock)

If a refugee insists on bringing a pet, the refugee must bear the costs for the transport of the pet to the final destination in Canada, *without any assistance from the Immigrant Loans Program.* **These costs must be prepaid overseas**.

The refugee must also cover the costs for placing the pet in a kennel while waiting for permanent living quarters, as pets are often not accepted in temporary accommodations.

Further information on eligible and ineligible expenses may be found in IP 21 or OP 4.

9.5 What are the levels of assistance?

a) There is no provision to issue a transportation loan for a person to relocate in Canada, once the person has arrived at his or her final destination in Canada.

In the case where a newcomer has been inadvertently destined to an inappropriate destination (i.e. a spouse and children in another city), a transportation loan may be extended to facilitate the relocation with other immediate family members. This provision is applicable only for cases based on humanitarian and compassionate grounds.

b) Special needs refugees, such as family units with different size or composition (i.e. single parent or large refugees families), the elderly, women-at-risk and disabled refugees, who are selected under the Joint Assistance Program, are eligible for transportation and other costs on a non–recoverable basis, for themselves and/or their family dependants (Refer to Processing Group Sponsorships, IP 2, and Immigration Cost Recovery Processing, IR 5 . See also section 12 of this manual).

9.6 Signing and approval authority

a) See section 5

b) In the case where a transportation contribution is being considered for a special needs refugee, the designated officer must obtain the approval from the Director, Resettlement Division of the Refugees Branch at NHQ.

9.7 Documentation

a) TheIMM 0500 form may be used to approve a transportation loan.

The IMM 0501 form is only used in Canada when the head of family is in Canada and the IMM 0500 is being issued abroad for dependant family members.

The IMM 0501 is an undertaking to repay by the head of family in Canada for a loan approved for family members living abroad (see APPENDIX B for a sample copy of the forms).

b) The transportation loan may be processed in conjunction with the ROLF and/or admissibility loan, in order to process, from abroad, the landing of family dependants of immigrants who are Convention Refugees or members of the Humanitarian Designated Classes (see section 15).

c) Procedures for processing the IMM 0500 and/or IMM 0501 are included in section 14

9.8 What are the procedures for processing the transportation loan?

9.8.1 How is a transportation loan processed abroad?

The visa office should use the services of the IOM, whenever possible, for processing refugees from abroad. For details on processing persons from abroad, see section 14

9.8.2 How is a transportation loan processed within Canada?

a) **Travel arrangements made by visa offices abroad**

Where a visa office has issued (or is about to issue) visas on behalf of dependant family members living abroad and transportation arrangements are being made by the visa office, the in–Canada loan applicant will complete an IMM 0501 on behalf of his or her family dependants.

(i) The visa office will send a message to the immigration office which will contact the head of family in order to complete and sign the IMM 0501 form on behalf of family dependants. The message must indicate the estimated amount of the transportation costs in Canadian dollars, including the IOM service fee, if applicable.

(ii) Before approving the IMM 0501, the immigration officer must consider the total of existing loans and new loans requested. The immigration officer will verify if the loan applicant has any other outstanding ROLF, transportation, admissibility or assistance loans by reviewing the Immigration Program Accounts Receivable (IPAR) system or by contacting Collection Services at NHQ at 1–800–667–7301. CIC offices in the Ottawa/Hull area can call (613) 941–0664 (see section 6)

(iii) If the loan applicant has an existing transportation loan, the immigration officer will include the number of the original transportation warrant in box 3 of the IMM 0501.

(iv) In order to enable Revenue Accounting to match and consolidate the existing loan with the new loan, the visa officer overseas will include the number of the original transportation warrant in box 5 of the IMM 0500 and the number of the IMM 0501 in box 3 of the IMM 0500.

(v) The immigration officer must show the estimated transportation costs and approximate amount of the new loan in boxes 24 and 25 of the IMM 0501.

(vi) The local CIC will send a message providing the IMM 0501 number to the visa office, and follow–up by sending copy 4 of the IMM 0501 to the visa office, and copy 1 to Revenue Accounting, Finance, at NHQ, Jean Edmonds North Tower, 4th Floor, 300 Slater St., Ottawa, Ontario, K1A 1L1. The loan applicant is given copy 2 of the IMM 0501.

(vii) When the visa office receives the IMM 0501 number from the local CIC office, the visa office completes the IMM 0500, which is the transportation warrant provided to the transportation company, airline or the travel agent required to obtain tickets.

(viii) The visa office marks the number of the IMM 0501 in box 3 of the IMM 0500 and has the family dependant sign the IMM 0500.

(ix) An immigration officer overseas must ensure that the **transportation warrant number** on the IMM 0500 is correctly recorded in **box 26 of the loan recipient's** IMM 1000 form.

(x) In the case where a loan applicant has been issued an IMM 1263 (Minister's Permit), the visa officer will enter the **transportation warrant number** from the original copy of the IMM 0500 in the **space under the "Signature of Holder"** of the IMM 1263 and in the appropriate box on all subsequent copies.

(xi) The transportation warrant number in the IMM 0500 **should not be written** in the loan recipient's passport or travel document.

(xii) The IOM, travel company or agency submits copy 1 of the IMM 0500 to Revenue Accounting, Finance at NHQ, Ottawa, Ontario.

b) **Travel arrangements made by immigration offices in Canada**

Where the visa office has advised the local CIC office that dependant family members living abroad are visa ready and travel arrangements are not being made from abroad, the in–Canada loan applicant will complete the IMM 0500 on behalf of family dependants and make the travel arrangements from within Canada.

(i) The visa office may not be able to make the travel arrangements for either of the following reasons:

- in the case where a visa office cannot process the IMM 0500 as it is restricted or not permitted by the host country; and/or,
- in the case where the IOM does not have a local office in the country in which dependant family members reside or where family dependants are required to travel excessive distances in order to sign the IMM 0500 making the processing of travel arrangements both difficult and time–consuming.

(ii) **Upon receiving confirmation from the visa office that visas have been issued on behalf of dependant family members living abroad,** the in–Canada loan applicant will complete an IMM 0500 on behalf of his or her family dependants living abroad.

(iii) Before approving a transportation loan, the immigration officer must consider the total of existing loans and new loans requested [see section a)ii) above. For further information, see section 6]

(iv) If the applicant has an existing transportation loan, the immigration officer will include the number of the existing transportation warrant in box 5 of the IMM 0500.

(v) In order to determine the amount of the loan that will be required, the applicant must provide a letter or written quote from the IOM, transportation company or the travel agency indicating the anticipated total for travel costs.

(vi) The IOM in New York will provide a quote based on the following information on family dependants included in the IMM 0500: names and dates of birth of family dependants and the names, addresses and telephone numbers of contacts in originating country.

(vii) The in–Canada loan applicant will submit the fare quotation in order for the immigration office to make a proper loan assessment.

(viii) The in–Canada loan applicant and the immigration officer will complete part I and sign the IMM 0500 (transportation warrant).

(ix) The immigration office will retain the file copy (copy 3) and give the IMM 0500 to the loan applicant who will present it to the IOM, a transportation company or travel agency with a letter authorizing the travel agency to issue airline tickets at the prices quoted in the estimate provided.

(x) Upon receiving the IMM 0500, the IOM, travel company or agency will complete part II and III of the IMM 0500 and issue air tickets for family dependants living abroad.

(xi) In order to avoid having the applicant send the airline tickets to the family dependants living abroad, the IOM, travel agency or airline in Canada may make arrangements to have airline tickets issued overseas, such as at the airport of embarkation.

(xii) The IOM, travel agency or transportation company will submit copy 1 of the completed IMM 0500 to Revenue Accounting, Finance at NHQ and copy 4 of the IMM 0500 to the local immigration or visa office. The loan recipient will keep copy 2 of the completed IMM 0500 for his or her own records.

9.8.3 How are travel arrangements made?

a) **Can the loan applicant choose the Airline or Travel Agency?**

The loan applicant should be encouraged to use Canadian air carriers, whenever possible, to arrange for transportation to Canada. As cost factors may influence the loan approval, the loan applicant may choose to use other air carriers or travel agencies to make transportation arrangements, if it is more cost–effective to do so.

The loan applicant who qualifies for a transportation loan may also use the services of the IOM. The IOM also provides travel services in the case where a transportation loan is not required or has not been approved. The IOM offers a pre–payment service and provides lower travel rates to sponsors who wish to pay cash or who have been refused a loan.

b) **What services does IOM offer?**

(i) The IOM is an international organization that assists in the orderly migration of persons to countries. As one of its functions, the IOM provides transportation for many immigrants to Canada at greatly reduced prices. Both visa and local CIC offices may use the travel services provided by the IOM to arrange for the travel of applicants and/or their family dependants living abroad.

(ii) The IOM New York also processes the transportation warrants (IMM 0500) for loan applicants.

(iii) The local CIC office or Canadian sponsor must ensure that IOM travel cost quotations include airport taxes, transportation costs and IOM service fees.

(iv) The IOM provides travel quotes in US dollars. Travel costs must be converted into CDN dollars when completing the IMM 0500 or the IMM 0501 (At the time that the IOM provides a travel quote, the appropriate exchange rate will be communicated).

9.8.4 What alternative travel arrangements are available?

The following alternative travel arrangements are available for persons who are not eligible for transportation loans:

a) **Where the Visa Office Initiates a Request for the Sponsor to Pay Travel Expenses**

(i) In the case where a refugee is, in the opinion of the visa officer, unable to repay a loan requested, a visa officer will notify the Resettlement Division at NHQ and request that the local CIC office which approved the sponsorship, contact the sponsor in order to determine whether he or she is willing to pay for the travel expenses.

(ii) When initiating the request, the visa office will also provide the following information to the local CIC office:

- name(s) of potential immigrants
- their date(s) of birth
- the overseas file number
- the visa office location
- the name, address and telephone number of the contact persons in originating country
- the name, address and telephone number of the contact person for the sponsor in Canada

(iii) The immigration office will contact the sponsor to determine his or her willingness to pay for travel.

In the case where the **sponsor is unable to pay**, the immigration office will notify the visa office and provide copies of the message to the Resettlement Division at NHQ.

Where the **sponsor is willing to pay**, the immigration office will provide to the IOM by fax, details of the case and provide a copy of the fax to the Resettlement Division at NHQ. The fax number of the IOM is (212) 867–5887. The telephone number is (212) 681–7000, extension 201.

- The fax will be addressed to the attention of the Chief of Mission, International Organization for Migration (IOM).
- The IOM will contact the sponsor and provide a confirmed travel cost price.
- Once a price is quoted, the sponsor will mail a certified cheque or money order, in **US funds**, and make it payable to the International Organization For Migration (IOM), Canadian Program, 112 East 42nd St., Suite 1610, New York, New York 10168.
- The IOM office with responsibilities in the corresponding world area will contact the visa office to arrange for the departure.

b) **Where A Sponsor Initiates A Request To Pay Travel Expenses**

(i) In the case where a sponsor directly contacts an immigration office to indicate his or her willingness to pay for the travel arrangements of the family dependants living abroad, the immigration office will contact the visa office to determine whether the family dependants are visa–ready.

(ii) When initiating a request, the immigration office will provide to the visa office the details of the case as outlined in section 9.8.4 a)ii) above.

(iii) The same procedures outlined in section 9.8.4 a)iii) above are to be followed when a sponsor agrees to pay for travel (i.e. the provision of a travel price quotation from the IOM, the mailing of a cheque by the sponsor to the IOM and the notification to the visa office by the IOM in order for travel arrangements to be made for the departure).

Note: *For more information on alternative arrangements, please refer to section* 12 *and* 13 *for more information on special needs cases.*

9.8.5 How is the IMM 0500 as a transportation warrant processed in Canada or abroad:

a) The IMM 0500, when presented to the IOM or travel company or agent, will be used to obtain one–way tickets to Canada.

b) The immigration or visa officer completes Part I of the IMM 0500, including the ROLF loan calculations as applicable, and provides the applicant in Canada or abroad with a letter of instructions to the travel agent or company, to which copies 1, 2 and 4 of the IMM 0500 are attached (see APPENDIX G for a copy of a sample form letter).

c) The following are general instructions for completing Part I of the IMM 0500:

(i) The immigration or visa officer will insert the name and address of the loan applicant and the names and dates of birth of all the family dependants living abroad.

(ii) The immigration or visa officer will provisionally approve the admission to Canada of persons named in the travel warrant.

(iii) The immigration office or visa office overseas will retain copy 3 of the transportation warrant in the local file.

(iv) The IOM New York, transportation company or travel agent will follow the established procedures for disposing of copies 1, 2 and 4 of the transportation

warrant [see section 9.8.2 b)xii) above] and for the reimbursement of transportation costs.

d) The following are general instructions for completing Parts II and III of the IMM 0500:

(i) The immigration or visa officer will include eligible expenses in the transportation warrant.

(ii) **The IOM New York, the transportation company or travel agent must notify the office issuing the IMM 0500 of any increases in transportation costs, changes in accommodation, routing, departure or arrival dates, or of any cancellation (see section** 9.8.6 **below).**

(iii) The IOM, transportation company or travel agent will authorize one–way tickets to Canada.

(iv) The loan applicant in Canada or abroad will present a letter of instructions with the copies of the IMM 0500 attached to the IOM New York, the transportation company or travel agent (see APPENDIX F for a sample copy of a letter of instructions).

(v) The IOM, the transportation company or travel agent will issue the tickets on the basis of the letter and the attached copies of the IMM 0500.

(vi) The IOM may arrange to have the tickets issued overseas, such as the airport of embarkation, so that the applicant does not have to send the actual tickets to the family dependants. Travel is normally scheduled six to eight weeks from the time the approved IMM 0500 is received at the IOM New York.

(vii) The immigration office, upon receipt of copy 4 from the IOM New York, the transportation company or travel agent, transfers the new information, (i.e. flight details, exact cost of travel and all signatures), from copy 4 onto copy 3 (already on file) and forwards copy 4 to Records at NHQ.

9.8.6 What happens when changes are made to the transportation warrant

a) **The IOM, the transportation company or travel agent must notify the issuing visa office of any increase in the transportation costs over those originally approved, changes in accommodation, routing, departure or arrival dates. If the visa officer does not consider the increased costs acceptable, the authorizing officer will inform the IOM, the transportation company or travel agent and cancel the transportation warrant.**

b) Where there is a change in the final destination or the method of travel ***after arrival in Canada,*** a new IMM 0500 may be issued as follows:

(i) the immigration officer will take back the unused portion of the traveler's ticket(s) issued abroad, and issue the immigrant a receipt for the unused portion.

(ii) the immigration officer will indicate on the receipt the name of the person to whom the transportation warrant was issued overseas, the original transportation warrant number, the airline ticket number(s) and the name of the airline carrier.

(iii) the immigration officer will certify that the unused portion of the airline ticket has been received and will stamp the receipt.

(iv) the immigration officer will make the new travel arrangement and issue a new IMM 0500.

(v) the immigration officer will attach the unused ticket, the original and copy 3 of the IMM 0500 and forward these to the Chief, Revenue Accounting, Finance at NHQ. This will enable the Department to obtain a credit from the transpor-

tation company on behalf of the loan recipient. The complete ticket (booklet) with the unused ticket voucher still attached is required.

(vi) **Where an immigrant chooses not to proceed to the original final destination but wishes to remain at the first point of arrival, a new IMM 0500 will *not* be issued.**

(vii) When the immigrant decides to remain in the area of the port of entry instead of proceeding to the original final destination, the immigration officer should indicate, on the receipt forwarded to Revenue Accounting, the name, address, apartment number, city and telephone number of the friend/relative/contact person, if available.

(viii) The loan recipient should be counseled to retain their receipt and copy 2 of the IMM 0500 issued abroad and in Canada (if applicable). This information may be required as verification that a credit is due on their loan account. The loan recipient should be advised that any credit to the loan account could take up to six months to process.

10 ADMISSIBILITY LOAN

10.1 Introduction

The admissibility loan enables persons to meet the cost of medical services required to establish their admissibility to Canada.

10.2 What is the objective of the admissibility loan?

The objective of the admissibility loan is to provide financial assistance to cover the costs associated with immigration processing for those seeking landing and/or their family dependants.

10.3 Who are eligible clients?

a) Section R45 lists the categories of persons who are eligible to apply for an admissibility loan.

b) **In Canada**, eligible applicants include:

- Convention Refugees or members of the Humanitarian Designated Classes, on behalf of their family dependants residing abroad

c) **Abroad**, eligible applicants include:

- immigrants who are Convention Refugees or members of the Humanitarian Designated Classes seeking resettlement in Canada
- immigrants who are Convention Refugees and members of the Humanitarian Designated Classes, on behalf of their family dependants

10.4 What are the types of assistance?

a) As per R45(3), medical examination costs, such as the Immigration Medical Examination, qualify as authorized expenses, **as do costs for travel documents**.

b) Medical expenses incurred for medical or psychological evaluations that exceed $500 should be referred to the Resettlement Division of the Refugees Branch at NHQ for approval.

10.5 Who has signing and approval authority?

See section 5

10.6 What documentation is required?

a) The IMM 0500 form may be used to approve an admissibility loan (see APPENDIX B for a sample copy of the form).

b) The admissibility loan may be processed in conjunction with the ROLF and/or transportation loan (see section 15).

c) Procedures for processing the IMM 0500 and/or IMM 0501 are included in section 14.

10.7 What are the procedures for processing the admissibility loan?

Refer to procedures for processing the transportation loan (see section 9 above).

11 ASSISTANCE LOAN

11.1 Introduction

The assistance loan helps to cover costs associated with the initial settlement of persons granted admission to Canada.

11.2 What is the objective of the assistance loan?

The assistance loan provides financial assistance to indigent immigrants and their family dependants in Canada for reasonable living expenses that are associated with basic needs of life, basic household needs or labour market access.

The assistance loan is not intended as a form of ongoing support. In most cases, it is issued to provide short–term financial assistance to newcomers.

11.3 Who are eligible clients?

a) Section R45 lists the categories of persons who are eligible to apply for an assistance loan.

b) Eligible applicants include:

- Permanent residents
- Convention Refugees[3]
- Persons lawfully in Canada who are being processed for landing.

11.4 What are the types of assistance?

11.4.1 Basic needs of life

A loan may be authorized for basic needs of life in those cases where:

a) it is clearly indicated that the person has, available for transfer to Canada at a later date, adequate assets to cover his or her establishment in Canada;

b) the person has **earned** some income but is awaiting payment from other sources such as earnings from employment, workers' compensation, training allowances or any other income support measures; or,

c) the person has either lost or misused a Resettlement Assistance Program (RAP) benefit payment.

11.4.2 Loan approval for basic needs of life

A loan for basic needs of life should only be authorized in special circumstances, as described below:

a) Basic needs of life represent the requirements for day–to–day survival and human dignity. As such, these needs include rent, utilities (light, power, water, telephone), food, clothing and, if necessary and appropriate, incidental expenses, such as local public transportation costs, personal hygiene items, non–prescription health care aids and newspapers.

b) The assistance loan issued for basic needs of life is normally limited to one month's rent, food, etc., pending the verification of the transfer of funds from the loan applicant's home country. A RAP counselor, who believes that assistance is required in excess of one month, must provide a full report detailing the costs and potential number of loan requests to RHQ for approval.

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3. *Although Treasury Board Minutes (821486), which came into effect on 15 May 1994, restricts eligibility for resettlement assistance benefits to government-assisted refugees, all persons eligible under Section R45(2) continue to be eligible for assistance loans if they can demonstrate the need for a loan and the ability, or potential ability to repay the loan.*

c) When required, a loan may also be authorized for damage deposits for such things as returnable utility deposits such as hydro, telephone, gas and rent. An assistance loan may also be issued to cover last month's rent in regions where it is paid in lieu of a damage deposit at the same time as the first month's rent.

11.4.3 Basic household needs

a) A loan may be authorized for basic household needs for the following categories of persons:

(i) all ND 2s (other independent immigrants), including persons under special programs

(ii) CR/RS/RA 4s (Convention Refugees or members of the Humanitarian Designated Classes whom do not require language training or have sufficient funds to support themselves or their family dependants) who have exhausted their funds and are now indigent.

(iii) CR/RS 1s (Government–sponsored Convention Refugees or members of the Humanitarian Designated Classes selected abroad and accompanying family dependants) who have missed their assistance contribution and are in need of assistance (refer to *Resettlement Assistance Program and Related Functions*, IT 12).

b) In cases where the client's immigrant category is in doubt, the RAP counselor should obtain clarification from the immigration office.

11.4.4 Loan approval for basic household needs

A loan for basic household needs should only be authorized in special circumstances, as described below:

a) Basic household needs are regarded as complementary to the basic needs of life. As such, these needs include beds, window coverings, tables, chairs and common household effects such as kitchen utensils, pots and pans, brooms, mops and bed linen.

b) A loan issued for basic household needs is a one–time provision.

c) A request for an assistance loan for basic household needs must not exceed the maximum allowed for such assistance under the Resettlement Assistance Program (see IT 12 for more details).

11.4.5 Labour market access needs

a) Labour market access needs are identified as financial barriers to employment, which if removed totally or partially, would allow a person to accept employment. Needs in this category include costs associated with the purchase of tools, the payment of examination fees and payments for dependant care.

b) The following are examples of costs for which a loan can be approved:

(i) a hard hat and safety boots required by a construction worker in order to appear on the job site

(ii) the costs to take an examination for a license to practice a trade or profession needed by a technician or professional in order to accept an offer of employment

(iii) short–term child care required by a parent in order to begin work immediately.

11.4.6 Loan approval for labour market access needs

A loan for labour market needs should only be authorized in special circumstances, as described below:

a) A loan for dependant care expenses may be authorized, under exceptional circumstances, when either both parents or a single parent has a confirmed offer of employment, and assistance is required to pay for child care in order to accept that employment. Loans for dependant care are short–term and cover child care expenses for the first month of employment only. Loans for dependant care expenses should not be issued to people who are attending LINC classes or any other training.

b) An assistance loan does not cover training required to enhance a person's marketability. Such training includes keyboarding courses and introductory computer program courses, such as Microsoft Word and Excel.

c) An assistance loan may be approved to obtain licensing for professionals (e.g. a qualified doctor who must register with the College of Physicians in order to practice).

d) **An assistance loan cannot be issued for medical treatment costs. Only medical costs associated with medical care or insurance required to engage in employment are covered.**

e) A RAP counselor must ensure that assistance for labour market access needs is justifiable and should, therefore, consult with RHQ in order to determine whether the request is meritous. Receipts for expenditures must be obtained and be kept on file.

f) A request for an assistance loan for labour market access needs must not exceed the maximum allowable of $2,500.

11.5 Who has signing and approval authority?

a) For the purposes of the assistance loan, signing authority has been delegated to the RAP counselor (Refer to section 5).

b) The RAP counselor must seek authorization from the regional Settlement division before issuing further loans if the combined total of loans (excluding transportation loans) would amount to $2,500 or more.

c) The RAP counselor may sign the IMM 5355 for costs associated with labour market access needs up to a $1,000. The local office manager/District manager must authorize loan requests in a greater amount but not exceeding $2,500.

11.6 What documentation is required?

a) The IMM 5355 form is used to approve an assistance loan (see APPENDIX B for a sample copy of the form).

b) Similar to other loan agreements, the IMM 5355 must be completed and signed by the client, in the presence of a RAP counselor. Once signed, the loan agreement is a legal document.

c) A request for financial assistance must be thoroughly checked and documented before approving an assistance loan. A copy of the applicant's immigration document must be placed on file.

11.7 What are the procedures for processing the IMM 5355?

a) The RAP counselor must verify if the loan applicant has any outstanding loans before approving the assistance loan.

b) If the loan applicant does not have any outstanding loans, the

IMM 1000 or other authorization form should be attached to the

IMM 5355 (see APPENDIX B for a sample copy of the forms).

c) The IMM 1000 number must be noted on the IMM 5355, below the serial number that appears in the top right–hand corner of the IMM 5355 form. The IMM 1000 number is required in order to retrieve and to update the file for the assistance loan applicant in the Immigration Program Accounts Receivable (IPAR) system.

d) The RAP counselor must indicate whether the loan applicant has a transportation loan in the box entitled "**T.L. Warrant No.**" which appears on the left–hand side of the IMM 5355. In the case where a transportation loan has not been issued for the loan applicant, the RAP counselor must record NA (not applicable) in the box.

11.8 Conversion of assistance loans to RAP contributions

11.8.1 Introduction

a) The assistance loan is not to be used as an alternative to assistance contributions payable under the Resettlement Assistance Program. *Funds issued under the assistance loan must be repaid.*

b) In order to avoid the issuance of a loan when a recipient is actually entitled to a contribution, the RAP counselor should verify that a loan rather than a contribution is the proper means of assistance (for special needs refugees, please refer to section 12 for further details).

c) The goal of the RAP counselor is to screen out potentially frivolous cases and to identify only those which legitimately warrant approval. For example, an assistance loan should not be issued to a Convention Refugee, in lieu of resettlement assistance benefits, in order to penalize him or her for not attending language instruction classes or for not participating in job search programs. Neither should an assistance loan be approved to recover a contribution overpayment (refer to IT 12 for further details).

d) If approving a loan for an eligible applicant, care should be taken to avoid the possibility of having to convert the loan to a contribution at a later date. ***Conversion of a loan to a contribution should be the exception and not the rule.*** Should a conversion to a contribution be required, the RAP counselor must ensure that there is sufficient documentation on file as the RAP office will be responsible to provide sufficient rationale to support such a recommendation (for special needs refugees, please refer to section 12)

11.8.2 What are the procedures at the RAP office?

When a potential conversion of an assistance loan to a contribution is identified, the RAP counselor should follow these procedures:

a) review the file and investigate, if necessary.

b) prepare a detailed memorandum explaining reasons for the conversion and, if applicable, the reasons for any differences between the loan amount and that which is to be transferred towards the contribution fund. The memo should include recommendation(s) and supporting documentation.

c) once receiving approval and signature on the memo by the local office manager, the RAP counselor should forward the memo to the regional Settlement division for approval on the conversion.

d) once receiving approval from the regional Settlement division, the RAP counselor should raise a journal voucher and have the debit portion approved by an authorized officer at the region.

e) once the debit portion is approved, the RAP counselor should forward a memorandum to regional Financial services including the journal voucher and the approval obtained from the regional Settlement division.

11.8.3 What are the procedures at the regional office?

Upon receipt of the memorandum, the regional Settlement division should follow these procedures:

a) review the report and recommendation(s) made by the local office and obtain any additional information that may be required to support the recommendation.

b) in the case where the regional Settlement division does not concur with the recommendation, return the case to the local office with the decision not to support the recommendation.

c) the local office should inform the client that the request for a conversion was denied.

d) in the case where the regional Settlement division concurs with the recommendation, advise the RAP counselor, by memorandum, of the decision to support the recommendation and provide a copy of the memo to the local office.

e) the local office should follow the required financial procedures for the conversion of an assistance loan to a contribution and forward a memorandum to regional Financial services attaching the approval obtained from the regional Settlement division.

f) Regional Financial services must verify that the documentation provided is correct, following the guidelines established by Accounting Policy, and forward it to the Chief, Revenue Accounting, Finance at NHQ, with a copy to the Director, Resettlement Division, Refugees Branch at NHQ.

11.8.4 What are the procedures at national headquarters?

The Chief, Revenue Accounting, Finance at NHQ, verifies the documents, ensuring that funds have been committed and that the amounts are correct, in accordance with financial procedures. Provided all is in order, the transaction is processed and the journal voucher actioned to convert the loan to a contribution.

Revenue Accounting at NHQ will notify the Director, Resettlement Division, Refugees Branch, when a contribution for a loan applicant is processed.

12 RESETTLEMENT ASSISTANCE PROGRAM (RAP) AMENDMENTS AFFECTING THE DELIVERY OF THE IMMIGRANT LOANS PROGRAM

On 20 February 1997, the Treasury Board approved a number of amendments to the terms and conditions of the Resettlement Assistance Program (RAP).[4] Two of these amendments affect the operational delivery of the Immigrant Loans Program at missions abroad for certain special needs refugees.

12.1 What are the amendments?

The two amendments are:

(i) the expansion of the eligibility criteria to other government-assisted refugees with special needs. Along with disabled refugees, special needs refugees now include those family units with different size or composition such as single parent or large refugee families), the elderly, women-at-risk; and,

(ii) the provision for the payment, ***on a contribution basis***, of the Right of Landing Fee (ROLF) as well as transportation, medical examinations and accompanying costs to the final destination in Canada, for these special needs refugees.

These amendments were made to enable other special needs refugees to access available resources as well as to encourage more joint-assistance sponsorship undertakings for special needs refugees.

12.2 Who is eligible?

Government-sponsored refugees ***selected abroad*** who, in the opinion of a visa officer, are special needs refugees who would benefit from the additional settlement support available under the terms of a joint-assistance agreement (CR/DC/RS/RA 5).

However, not every special needs refugee will be allowed to access the contribution fund. Where a visa officer is of the opinion that a special needs refugee could reasonably be expected to repay an immigrant loan, then an immigrant loan for the medical examination, ROLF and transportation costs should be processed in the usual manner.

12.3 How do we access the RAP contribution program?

Where a special needs refugee would benefit, in the opinion of a visa officer, from a joint-assistance sponsorship, consideration may be given to access the RAP contribution program for the payment of medical examinations and transportation costs as well as the Right of Landing Fee.

To access contribution funds, the visa officer will make a recommendation to the Director, Resettlement Division (SRE), Refugees Branch at NHQ. The recommendation will include the following information:

- the name and date of birth of the special needs refugee and each dependant family member; an estimate, ***in Canadian dollars***, of the total cost of the ROLF, medical examinations and transportation expenses for the family;
- the estimate should also include all related expenses such as IOM service fees, airport taxes and exit visas, where applicable; and,
- a short narrative giving reasons why the refugee may not be able to repay an immigrant loan.

The recommendation should be submitted to the Director, Resettlement Division, ***at the same time*** that a visa officer makes a recommendation for a joint-assistance sponsor to be found.

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4. As of 1 April 1998, the Resettlement Assistance Program (RAP) has replaced the Adjustment Assistance Program (AAP).

12.4 What will the Resettlement Division consider when reviewing a contribution request?

In 1998, the contribution fund provided for a total of $150,000 annually[5]. The Resettlement Division estimates that this fund can reasonably accommodate between ten and twenty refugee families per year. As available contribution dollars are limited, in reviewing each request, several options may be pursued by the Resettlement Division before access to the fund is authorized. These include:

(i) to seek a sponsorship organization who is willing to sign a Letter of Understanding (see APPENDIX G) on behalf of the loan recipient, and who would commit to make monthly payments on the loan account for the stated period indicated in the agreement. This assistance, which may range from a period of one to three years, may sufficiently allow the special needs refugees to establish and to assume responsibility for the repayment of the remaining balance on the loan.

(ii) to request that a sponsor make a lump-sum deposit in advance towards the total estimated travel, ROLF and medical examinations costs. The lump-sum payment may sufficiently reduce the size of the monthly payments to a level that the loan recipient would be able to handle (see section 13)

(iii) to approve access to the contribution dollars, to cover the costs which have been identified.

(iv) in exceptional cases where neither i) or ii) above could be negotiated successfully, the Resettlement Division may refuse access to the fund and instead recommend that an immigrant loan be approved. The Resettlement Division would provide reasons for this recommendation to the Mission in very exceptional cases where neither i) or ii) above could be negotiated successfully, the Resettlement Division may refuse access to the fund as well as recommend that an immigrant loan not be approved.

12.5 What procedures are to be followed by the visa office?

For options i), ii) and iv) above, where alternative arrangements have been established, the visa officer will follow regular procedures for issuing an immigrant loan, as outlined in section 13 below.

For option iii) above, where access to the contribution fund has been authorized, the visa officer may use the immigrant loan agreement form (IMM 0500) to record all expenses and to process the contribution fund; however, the following amendments will need to be made to the form in order to remove all references to the Immigrant Loans Program:

(i) Cross out the words "**IMMIGRANT LOANS**" in the title at the top left-hand corner of the form and print or type the words "**CONTRIBUTION AGREEMENT**" immediately to the right of the crossed-out words. Also, cross out the words "**Loan**" appearing in the sub-title right below. The new wording in the sub-title should appear as "**(Right of Landing Fee, Transportation and Admissibility)**";

(ii) Cross out the word "**Loan**" in utility box 6, leaving only the word "**recipient**" in the title;

(iii) Cross out the word "**Loan**" in utility box 35, and replace with the word "**Contribution**";

(iv) Cross out the whole statement below utility box 33 and just above the signature blocks, which begins with "**I understand, and agree to abide by, the terms of the loan...**" and ends with "**...mailed to me by the Department of Citizenship and Immigration.**"

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5. As of 1 April 1999, the contribution fund will be increased to $400,000.

Once these amendments have been made, the IMM 0500 may be used by visa offices and the IOM in the usual manner to make transportation arrangements for special needs refugees accepted for destination to Canada (see section 14 for further details on processing the IMM 0500).

12.6 What procedures are to be followed by Financial Services at NHQ?

Where an IMM 0500 has been amended to accommodate the processing of the ROLF, admissibility and transportation costs on the basis of a contribution, Revenue Accounting at NHQ will appropriately code the warrant to allow these expenses to be paid through the contribution allocation that has been established and will not establish a loan account for these cases.

Once the contribution allocation has been successfully processed, Revenue Accounting will notify the Director, Resettlement Division, Refugees Branch at NHQ.

13 ALTERNATIVE ARRANGEMENTS FOR LOANS

On occasion, a loan applicant who does not qualify for a loan may have the request reconsidered if the amount of the loan and the monthly payments can be reduced. In some cases, a third party, including a sponsorship organization, may wish to assist a sponsor in Canada who is unable to pay the loan amount required to bring his or her immediate family members to Canada.

13.1 How can the alternative arrangement be established?

13.1.1 In–Canada loan applicant

An in–Canada loan applicant who is unable to assume the full cost for the loan repayment may be able to locate an individual or group willing and able to provide assistance. Friends, family or community groups can help by depositing a lump sum payment into a suspense account at NHQ.

13.1.2 Government–assisted refugees

If a refugee cannot be approved for a loan on his or her own, a visa officer may seek the assistance of the Director, Resettlement Division, Refugees Branch at NHQ to locate a sponsor in order to assist a refugee with all or a portion of the costs. In this case, the sponsoring group may be requested to submit a Joint Assistance Sponsorship (JAS) undertaking.

> ***Note:*** *A joint sponsorship undertaking may be considered under the contribution fund. See section* 12 *for more details.*

13.1.3 Refugees under private sponsorship agreements

For refugees selected under private sponsorship agreements, a visa officer may request that the immigration office contact the sponsor group to determine if the group is willing and able to make a deposit to lower the amount of the loan required by the loan applicant, or to assume the total amount of the loan.

> ***Note:*** *A private sponsorship undertaking may be considered under the contribution fund. See section* 12 *for more details.*

13.1.4 Sponsors located by the immigration office

The immigration office may wish to contact a sponsoring group where, at the request of the visa office, the refugees are unable to qualify for loans.

13.2 Who are eligible sponsorship groups?

The following sponsorship groups may, at the request of either the loan applicant or the immigration office, assist an applicant in Canada who has applied for a loan for either himself or herself and/or immediate family members:

Sponsorship agreement holders (SAHs);

Constituents of sponsorship agreement holders: and,

Other private sponsorship groups.

The assistance a group is willing to provide may satisfy the designated officer that the loan applicant will be able to repay the balance of the loan.

13.3 What are the types of alternative arrangements?

Where a loan amount can be approved with the assistance of a third party, an individual or a group may agree to an arrangement whereby the amount of a loan will be reduced by paying the difference between what the loan applicant can repay and the total cost of the loan. This assistance may be provided either through:

a) a **partial pre–payment**, (i.e., a lump sum payment to a suspense account), to decrease the amount that the applicant must repay; or,

b) through set **monthly payments** on behalf of the loan applicant.

13.3.1 How is a suspense account established?

a) Where an individual or sponsorship organization wishes to make a lump–sum payment to reduce the overall loan amount required, a suspense account may be established at NHQ. To support a request for the establishment of a suspense account, the designated officer should send the following information to the Director, Resettlement Division, Refugees Branch at NHQ by fax at (613) 957–5836:

(i) name, date of birth and file number of the loan applicant;

(ii) visa office and file number;

(iii) details of the family size and composition;

(iv) name, address and telephone number of the individual or sponsoring organization and of the official representative who will be responsible for the payments;

(v) approximate amount of loan (do not deduct amount being submitted for the suspense account from the loan account); and,

(vi) amount to be advanced by the individual or group.

b) The cheque is made payable to the "Receiver General for Canada" and must be accompanied by a letter identifying the name, date of birth, visa office and file number of the person(s) for whom the payment is made.

The cheque is mailed by the individual or group to the Director, Resettlement Division, Refugees Branch at NHQ, Jean Edmonds South Tower, 17th Floor, 365 Laurier Street West, Ottawa, Ontario K1A 1L1.

c) In the case where a suspense account is established on behalf of a sponsor with family members abroad, the Refugees Branch at NHQ will arrange to deposit the cheque to a suspense account where it will remain until NHQ receives notification by the immigration office, individual or group assisting with the loan payments, that the family members have arrived in Canada.

d) When the cheque is received, NHQ will notify the local immigration or visa office and will provide a copy of the telex correspondence to the Refugees Branch at NHQ.

e) On receipt of notification from NHQ, the local immigration or visa office will proceed with the approval of the loan for the full amount. **In the case of a transportation loan, only once visas are issued can a transportation loan be approved and transportation warrants be issued.**

f) When the loan is approved, the local immigration or visa office will notify the Refugees Branch at NHQ and copy RHQ. The notification will include the IMM 1000 and IMM 0500 numbers.

g) When the loan account is established by Revenue Accounting at NHQ, the money held in the suspense account will be applied as a loan payment.

13.3.2 How are set monthly payments established?

An individual or group may not have a lump sum available to deposit to a suspense account but may be willing and able to make set monthly payments over a given period of time or for a given amount of money. This arrangement is particularly beneficial for the loan applicant whose immediate potential to repay is low.

An individual or group who agrees to this arrangement, however, **must ensure that full payments in the set amount are made on a monthly basis.**

Once the individual or group's commitment has been met, the loan applicant becomes responsible for the repayment on the outstanding loan balance.

a) **Signing Authority for the Letter of Understanding**

The Letter of Understanding documents the financial arrangement made by an individual or sponsorship group on behalf of the loan applicant. **As such, the Letter of Understanding is a legal document** (see APPENDIX G for a sample form letter).

In the case of a sponsorship group, a representative of the group who has the financial authority to sign on behalf of the group, will sign a Letter of Understanding. If the group is not incorporated, all members of the group will sign the Letter of Understanding. The group as a whole will be held responsible for the loan repayment according to the provisions set in the Letter of Understanding.

Revenue Accounting, Finance at NHQ will establish the loan account under the name of the loan holder. However, the statement of account will be sent to the individual or sponsorship group for the period covered by the Letter of Understanding.

The complete name(s), address, telephone number and name of the primary contact of the sponsor as well as the name, address, telephone number and the IMM 0500 (loan agreement) number of the loan holder, if available, must be included and attached to the Letter of Understanding.

In order to ensure that monthly payments are credited to the loan holder, the individual or group must include the loan holder's name and loan account number on the front of the loan payment as well as the detachable portion of the statement of account.

b) **Establishing Monthly Payments**

(i) RHQ or the immigration office will prepare a Letter of Understanding (see APPENDIX G for a sample form letter). The individual or group will be requested to sign the Letter of Understanding.

(ii) To support a request for the establishment of monthly payments on behalf of a loan applicant, details of the arrangements agreed to by the individual or group and the set monthly payments to be made for a stated period or for a stated total contribution must be provided by RHQ or the immigration office. (For example, an individual or group agrees to make monthly payments of $150 each over 36 months).

(iii) In the case where a Letter of Understanding is established on behalf of a sponsor with family members living abroad, the individual or group must be advised that the IMM 0500 (loan agreement) can only be approved once family members are issued their visas and are able to travel to Canada.

(iv) In the case where an individual or group has signed a Letter of Understanding to support a loan applicant with the repayment of a loan, the manager of an immigration office will sign the Letter of Understanding on behalf of the Department. The immigration office will either proceed with the approval of the loan or will notify the visa office to proceed with the approval of the loan.

c) **In the case of a transportation loan, a transportation loan can be approved and transportation warrants issued only once visas have been issued.**

(i) When the Letter of Understanding has been signed, RHQ or the immigration office will submit the original copy of the Letter of Understanding, bearing the signature of the individual or group and including the IMM 0500 number, to the Director, Resettlement Division, Refugees Branch at NHQ.

(ii) Once the loan is approved, the visa office will notify the local CIC office or RHQ and copy the Refugees Branch at NHQ, and provide the IMM 0500 and IMM 1000 numbers.

14 PROCEDURES FOR PROCESSING THE IMM 0500 AND/OR IMM 0501 FOR ROLF, TRANSPORTATION AND/OR ADMISSIBILITY LOANS

14.1 IMM 0500

a) The IMM 0500 is a controlled form. Supplies of this form are to be handled responsibly, and are not to be transferred between offices without prior approval from the Director, Resettlement Division, Refugees Branch at national headquarters.

> ***Note:*** *The existing stock of older forms are to be destroyed when newer forms are received. The serial no. of all destroyed forms must be maintained in the register kept by local immigration or visa offices for controlled documents.*

b) The Financial Administration Manual states that an accountable forms custodian will maintain a control sheet to register all transportation warrants received and issued (see IMM 1334 for a sample copy of the form).

c) In smaller offices where the anticipated use of the IMM 0500 is under 25 copies per year, forms may be obtained as needed by writing, telephoning or telexing the Director, Resettlement Division, Refugees Branch at NHQ [telephone (613) 952–8133; fax (613) 957–5836].

d) Immigration offices may replenish their supply of forms through the SAP Integrated Financial and Material Management System. Orders for available forms may be faxed directly to the Canada Communications Group (CCG) at (819) 779-2833. For those offices that do not have access to SAP, forms may be ordered using CIC 0004 or IMM 1389 for non-controlled forms and IMM 4049 for controlled forms. Once completed, form requests should be faxed to Material Management at (613) 954-9997 who will input these orders into the SAP system to ensure their cost recovery.

14.2 When is an IMM 0500 used?

a) The IMM 0500, which can be issued either in Canada or abroad, serves two primary functions:

   (i) Issued as a **transportation warrant**, it enables the applicant to obtain one–way travel tickets to Canada when presented to the IOM, a travel company or agency authorized to provide travel accommodations for refugees.

   (ii) Issued as a **financial undertaking**, it holds the applicant signing a loan agreement legally responsible for the repayment of the ROLF, admissibility and/or the transportation loan.

b) In the case where the IMM 0500 is issued on behalf of family dependants living abroad, the IMM 0500 is not approved until immigrant visas are issued and the family members are in a position to travel.

c) A loan may be approved only to the extent that transportation assistance is necessary. Where the final destination in Canada is known, inland transportation costs **must** be included in the original loan amount.

d) The IMM 0500 may be issued at a Canadian port of entry to arrange transportation to the place of final destination if these arrangements were not made from abroad.

14.3 How is an IMM 0500 cancelled?

a) When canceling an IMM 0500, the designated officer will mark "**cancelled**" across the face of the IMM 0500 before disposing of its copies. The form must be signed, dated and sent to the Chief, Revenue Accounting, Finance at NHQ.

b) If copies of the IMM 0500 have been distributed, the designated officer will, on recovery of copy 1 (copies 2 and 4 cannot be used as valid instruments), print or stamp "**cancelled**" across the face, indicating the reason for cancellation, and send it to the Chief, Revenue Accounting, Finance at NHQ.

c) Where the IMM 0500 is cancelled or a new transportation warrant is issued in replacement, the designated officer will cancel or amend the transportation warrant serial numbers entered on the loan applicant's or family dependant's Immigrant Visa and Record of Landing (IMM 1000) or Minister's Permit (IMM 1263).

15 INSTRUCTIONS FOR COMPLETING THE IMM 0500 (IMMIGRANT LOANS FORM)

15.1 Introduction

a) The IMM 0500 may be used for one, or any combination of the following loan options: the ROLF, admissibility or transportation loan.

b) The utility box numbers refer to those contained on the revised IMM 0500 form carrying the publication date of 05–96. If using the older IMM 0500 form (publication date of 04–95), please note that the number sequence for the utility boxes is one number lower than in the new version. For example, utility box 2 in the (04–95) version is now utility box 1 in the (05–96) version.

15.2 Information to insert in utility boxes of the IMM 0500

15.2.1 Utility box 1:

File number

The local immigration or visa office issuing the loan will insert the office file number.

In the case where only a ROLF loan is being issued, the immigration office may not have a file number available as the IMM 1000 is electronically transferred from CPC Vegreville.

15.2.2 Utility box 2:

Issuing office

The name and responsibility centre code of the issuing office must be entered. To determine the appropriate code, see the Immigration Coding Handbook (IH), General Tables, Chapter 2.

15.2.3 Utility box 3:

IMM 0501 No.

In the case where an IMM 0501 is signed in Canada, the visa office will enter the IMM 0501 number in this utility box allowing Finance at NHQ to match the IMM 0501 with the IMM 0500.

The loan account will then be established in the name of the person who signed the IMM 0501 and the name of the person who signed the IMM 0500.

15.2.4 Utility box 4 a):

Warrant issue date

Enter the date on which the IMM 0500 is assigned to a specific client using the short date format (DD–MM–YY).

15.2.5 Utility box 4b):

Warrant expiry date

This date should not exceed the visa expiry date. Use the short date format (DD–MM–YY).

15.2.6 Utility box 5:

Original warrant number

a) A local immigration or visa office will require more than one IMM 0500 to process a family of more than five persons. If a second IMM 0500 is required to process a family, the number of the original IMM 0500 must be entered in utility box 5 of the **second** IMM 0500.

b) An immigration office may be requested to approve a transportation loan for a person who already has one and who wishes to bring his or her family dependants living abroad to Canada. If the original transportation warrant number is known, it

must be inserted in this utility box. This will allow Finance at NHQ to add the second transportation warrant amount to the existing loan account and prevent the establishment of more than one loan account for the head of family.

15.2.7 Utility box 6:

Name and address

Enter the loan recipient's surname, given name and address. This information is usually entered for the head of family.

15.2.8 Utility box 7

Date of birth

Enter two digits for each, using the short date format (DD/MM/YY).

15.2.9 Utility box 8:

Citizenship

Print in eligible writing or type the country of citizenship of the loan recipient who is identified in utility box 6.

15.2.10 Utility box 9:

Sex

Insert an "**X**" in the appropriate box.

15.2.11 Utility box 10:

Marital status

Insert an "**X**" in the appropriate box.

15.2.12 Utility box 11:

FOSS ID

This box is not applicable for visa offices that do not have a **FOSS** ID for the loan recipient.

The immigration office must enter the **FOSS** ID for the applicant that has been referred for landing by the CPC Vegreville. The applicant must obtain the ROLF loan before landing can be completed.

15.2.13 Utility box 12:

Immigration document

Insert an "**X**" to indicate if the document is an IMM 1000 or a Minister's Permit.

15.2.14 Utility box 13:

IMM 1000 or Minister's Permit number

Enter the document number of the IMM 1000 or the Minister's Permit in this box.

15.2.15 Utility box 14:

Special program

Enter the abbreviated immigrant program code from the Immigration Coding Handbook, IH2 (example, REF, AWR, etc.).

15.2.16 Utility box 15:

Immigrant category

Enter the appropriate immigrant category code from the Immigration Coding Handbook IH2 (example, CR1, CR5, etc.)

15.2.17 Utility box 16:

Persons covered by the transportation warrant

Include all persons who will benefit from the loan including the person identified in utility box 6 above.

> ***Note:*** *This box does not need to be completed in the case where the person travelling to Canada is single and has no family dependants as details in boxes 6 and 7 above will suffice.*

15.2.18 Utility box 17:

Personal information of sponsoring individual or organization

Enter the name, address and telephone number of the closest relative in Canada, sponsor or private sponsorship group; also include the city of destination for government-assisted refugees.

This information will assist Collection Services, Finance at NHQ to locate the loan recipient if he or she changes address and does not provide a forwarding address. If the person is a government–assisted refugee, the name of the immigration office of destination may assist Collection Services in locating any person who moves without providing a forwarding address. The immigration office file number, which may be available in the case of the sponsored refugee, may also assist Collection Services in locating the sponsor or another family member.

15.2.19 Utility box 18:

Right of landing fee calculation

Determine the number of persons in the family unit who are **19 years of age and older.** Enter the total in this utility box and multiply by the rate established for the right of landing fee (i.e. the rate applicable for 1999 is $975). Enter this amount in utility box 18 and then transfer this amount in utility box 33.

Utility boxes 19 through 35 (Section II and III) may be completed by the transportation company or IOM with the exception of utility box 28 which is to be completed by the visa office in most instances. The amount in utility box 28 is to be transfered to utility box 32 C) after the total has been calculated. See the IMPORTANT NOTE at end of these instructions for information on the application of interest.

15.2.20 Utility box 19:

Name and address of transportation company or agent

Type or print legibly the name and address of the transportation company or agent and include a telephone number in the event they need to be contacted for clarification.

15.2.21 Utility box 20:

Flight numbers

Enter the flight numbers for the departure from the port of embarkation and the arrival to the place of final destination in Canada for which reservations have been made to transport the loan applicant, and his or her family dependants to Canada.

15.2.22 Utility box 21:

Ticket numbers

If more than one ticket is issued and the tickets are in sequential order, enter the numbers of the first and last tickets in the sequence.

15.2.23 Utility box 22:

Port of departure

Type or print legibly the name of the port of departure for Canada.

15.2.24 Utility box 23:

Port of arrival

Type or print legibly, the name of the port of arrival in Canada.

15.2.25 Utility box 24:

Date of departure

Enter the date of embarkation for Canada using the short date format (DD–MM–YY).

15.2.26 Utility box 25:

Expected date of arrival

Enter the expected date of arrival in Canada using the short date format (DD/MM/YY).

15.2.27 Utility box 26:

Cost of passage

The following are the transportation costs ***from the port of embarkation to the port of arrival in Canada:***

Full fare = number of persons for whom the full fare is applicable multiplied by cost of full fare from the port of embarkation to the port of arrival in Canada.

Partial fare = number of persons for whom the partial fare is applicable multiplied by the cost of the partial fare from the port of embarkation to the port of arrival in Canada.

Infant fare = number of persons for whom an infant fare is applicable multiplied by the cost of the infant fare from the port of embarkation to the port of arrival in Canada.

Reduced fare = number of persons for whom a reduced fare is applicable multiplied by the cost of the reduced from the port of embarkation to the port of arrival in Canada.

Enter the total of these amounts in the "Total cost of passage". Transfer this amount to utility box 32 A).

15.2.28 Utility box 27:

Inland costs

The following are the costs of transportation ***from the port of arrival in Canada to the place of final destination in Canada.***

Full fare = number of persons for whom the full fare is applicable multiplied by cost of full fare from the port of arrival in Canada to the place of final destination in Canada.

Partial fare = number of persons for whom the partial fare is applicable multiplied by the cost of the partial fare from the port of arrival in Canada to the place of final destination in Canada.

Infant fare = number of persons for whom an infant fare is applicable multiplied by the cost of the infant fare from the port of arrival in Canada to the place of final destination in Canada.

Reduced fare = number of persons for whom a reduced fare is applicable multiplied by the cost of the reduced from the port of arrival in Canada to the place of final destination in Canada.

Enter the total of these amounts in the "Total inland costs". Transfer this amount to utility box 32 B).

15.2.29 Utility box 28:

Medical costs

Medical costs are derived from the admissibility loan portion and are costs for medical examinations conducted to ensure the loan applicant meets Canada's admissibility requirements.

Transfer this amount to utility box 32 C).

15.2.30 Utility box 29:

Service fees

Currently, a service fee is paid only to the IOM.

This box is reserved for the IOM service fee (As of 1 May 1998, the applicable fee is USD $82/CDN $118 per person)[6]. The total service fee is calculated by multiplying the number of persons for whom the service fee is applicable by the service fee amount.

Enter the amount in the "total". Transfer the amount from utility box 29 to utility box 32 D).

15.2.31 Utility box 30:

Other costs

Other costs, such as amounts paid for travel documents or exit visas, when required, may be entered in this utility box.

Detail the reasons for the "other costs" in utility box 31. Transfer the amount from utility box 30 to utility box 32 E).

15.2.32 Utility box 32:

Amount of warrant

The amount recorded in 32A, B, C, D, and E should have been transferred from utility boxes 26, 27, 28, 29 and 30 as appropriate.

Total the sub–amounts and enter the total amount in utility box 32F. This total represents the full amount of the transportation warrant.

It is important to note, in the appropriate total box, whether a fee has been full or partially paid or does not apply.

15.2.33 Utility box 33:

Right of landing fee

This amount is transferred from utility box 18. Revenue Accounting, Finance at NHQ will identify this amount as the ROLF portion of the loan.

It is important to note whether the ROLF has been fully or partially paid or does not apply.

15.2.34 Utility box 34:

Warrant amount

This amount is transferred from utility box 32F. Revenue Accounting, Finance at NHQ will pay this amount to the transportation company or agent.

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6. Prior to 1 May 1998, the applicable IOM service fee for 1998 was USD $75 or CDN $103 per person.

15.2.35 Utility box 35:

Total loan

This is the total of utility boxes 33 and 34 and represents the total amount of the loan.

It is essential that this amount be completed accurately so that the loan recipient is properly informed of the total amount of the loan agreement.

> ***Note: All loans are interest bearing**. This includes loans approved for Convention Refugees selected abroad. Although refugees selected abroad may be subject to a "grace– period" from interest, it is essential that the immigration officer, providing counsel to a loan applicant, communicate the applicable interest rate in effect on the date that the loan was approved which will be applied against any unpaid balance of the loan account at the end of the grace period from interest. The interest rate will appear on the first monthly statement of account that will be mailed by the Department. **The rate of interest for 1999 is 4.54% per annum.** Interest on immigrant loan accounts is calculated daily, however, interest charges will not exceed the annual rate established on the first day of each calendar year.*

16 COLLECTION PROCEDURES

The following are loan terms and conditions in relation to the repayment of loans:

16.1 Repayment of the loan

a) A loan recipient is expected to repay the loan in full by consecutive monthly installments and in accordance with the repayment schedule set out in R46(2). Monthly installments are calculated according to the amount borrowed.

b) Depending on the amount borrowed, loans must be repaid within the following time periods:

(i) For loans equal to but not exceeding $1,200, within 12 months of issuance of the loan;

(ii) For loans over $1,200 but not exceeding $2,400, within 24 months of issuance;

(iii) For loans over $2,400 but not exceeding $3,600, within 36 months of issuance;

(iv) For loans over $3,600 but not exceeding $4,800, within 48 months of issuance; or,

(v) For loans over $4,800, within 60 months of issuance of the loans.

c) Loan recipients are encouraged to pay off their loans as quickly as possible by making regular monthly payments and by paying more than the required monthly payment wherever possible.

d) Further information on the repayment of loans can be obtained by consulting with Collection Services toll–free at 1–800–667–7301.

16.2 Notice of payment

a) Revenue Accounting, Finance at NHQ, will establish a loan account in the name of the loan recipient using the warrant number from the IMM 0500 as the account number.

Depending on the type of loan requested, several months may lapse before a loan account is established. For example, Revenue Accounting requires the invoice from a transportation company for the transportation costs for those persons listed on the IMM 0500 and a confirmation that the persons listed have arrived in Canada, before a loan account is established.

b) Payment received at either an immigration office or at Revenue Accounting at NHQ, will be recorded as a deposit on account.

c) Loan recipients who wish to pay off their loans before the account is established in order to avoid interest charges or for other reasons, may do so by contacting Collection Services toll-free at 1–800–667–7301.

d) Revenue Accounting at NHQ will notify loan recipients intending to repay the loan according to the repayment schedule about the loan amount and the minimum monthly installments required.

16.3 Methods of payment

a) A loan recipient is entitled to make loan payments using any of the following methods of payment: personal cheque, certified cheque, postal or money order.

b) Cheques and other negotiable items must be made payable to the "**Receiver General**".

c) Payments made in Canada are payable in Canadian funds. Payments made abroad to a visa office may be payable in local currency at the official exchange rate established by the visa office.

16.4 Payroll deductions

According to R46(3), the Minister may authorize the repayment of a loan by means of a payroll deduction scheme where an employer agrees to institute the loan repayment, on behalf of a loan recipient, in this fashion.

16.5 Deferral of loan payments

a) Under special circumstances, an immigration officer (collection officer) may grant a deferral of loan payments, a variation of payments or an extension to the repayment period [see R47(2)].

b) For Convention Refugees or members of the Humanitarian Designated Classes (persons in refugee–like situations) who have been selected in Canada or abroad, the deferral of loan payments may be up to 2 years. For any other person, the deferral of loan payments may be up to 6 months.

c) ***A deferral of loan payments is not automatically provided.*** A loan recipient who approaches an immigration office because he or she is unable to make full, regular loan payments should be immediately referred to Collection Services, Finance at NHQ.

> ***Note:*** *The immediate referral of loan recipients who are requesting a deferral on their loan payments is particularly important for those wishing to sponsor family dependants from abroad. These persons will need to satisfy the immigration officer reviewing the family class sponsorship request that they have not defaulted on their loan payments in order to demonstrate their ability to support family dependants (Please refer to OM IP 97-12, section* 3.1 *for further details).*

d) Where a deferral of loan payments is being requested, a designated officer must notify Finance at NHQ by either:

(i) sending a written report outlining the loan applicant's circumstances, the recommended length of the extension and the reasons, to the **Chief, Revenue Accounting, Finance at NHQ, Jean Edmonds North Tower, 4th Floor, 300 Slater St., Ottawa, Ontario, K1A 1L1**; or,

(ii) in urgent cases, by contacting **Collection Services at 1–800–667–7301 or at (613) 941–0664 and consulting with a collection officer.**

16.6 Recovery of delinquent loans

a) Section A118 authorizes for the recovery of any delinquent payments on loans on behalf of the Government of Canada. For the purposes of the Immigrant Loans Program, the Chief of Collection Services, Finance at NHQ, has been delegated responsibility for the recovery of delinquent loans.

b) The Chief of Collection Services may decide to take legal action against the debtor. If so, the Chief will refer the case to the Director, Resettlement Division, Refugees Branch at NHQ in order to obtain concurrence.

c) If the Director of Resettlement Division decides to proceed with the request for court action, he or she will inform the manager of the immigration office in whose area the debtor resides requesting any reason for objection to the request, and will forward a copy of the notification to regional headquarters for information purposes only.

d) The Manager of the immigration office will have six weeks to respond to the Director. If the local immigration manager can provide valid reasons for Collection Services not to proceed with the request, a report explaining these reasons must be forwarded to the Director of the Resettlement Division at NHQ. If applicable, a message indicating that a report is following in the mail, must be forwarded immediately.

e) Due to time limitations and the small number of anticipated cases that may be referred, the immigration office manager should treat a request for court action against a debtor as a priority.

f) If no response is provided during the six–week delay, Collection Services will consider that the immigration office manager concurs and will proceed with the court action.

16.7 Death of a loan recipient

In the event of the death of a loan recipient, the designated officer will immediately notify Collection Services at 1–800–667–7301 or (613) 941–0664.

16.8 Where a loan recipient has left Canada

a) If a designated officer becomes aware that a loan recipient, with an outstanding loan balance, has left Canada permanently, he or she must send a written report containing the debtor's transportation warrant number and new address, to the Chief, Collection Services, Finance at NHQ.

b) The Chief of Collection Services will write to the debtor and remind him or her of the outstanding balance on the loan. The letter will request that the debtor make the necessary arrangements to repay the balance owing through the immigration section of a specified Canadian mission. Collection Services will immediately send a copy of this letter to the visa office concerned.

APPENDIX A
LIST OF CALL CENTRES ACROSS CANADA

For loan applicants who require additional information about the Immigrant Loans Program or services offered by Citizenship and Immigration Canada, please refer them to the nearest Call Centre listed below:

In the local area of:

Montreal **(514) 496-1010**

Toronto **(416) 973-4444**

Vancouver **(604) 666-2171**

Anywhere else in Canada, call toll-free at 1-888-242-2100

All services are offered in English and in French. An automated voice response system will help loan applicants get answers to a wide range of immigration questions any time of day or night. By using the touch-tone features of their telephone, loan applicants can obtain information on other immigration or citizenship programs and services, general information on application kits, they can order application kits and can also get assistance with fee calculations. Call centre agents can also assist callers from 8:00 a.m. to 4:00 p.m., Monday to Friday: however, they cannot provide specific information on client files.

APPENDIX B
SAMPLE OF FORM IMM 0500 - IMMIGRANT LOANS

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

THIS WARRANT IS NOT TRANSFERABLE AND IS VALID ONLY WHEN SIGNED BY AN IMMIGRATION OFFICER

IMMIGRANT LOANS
(Right of Landing Fee Loan, Transportation Loan, Admissibility Loan)

PROTECTED WHEN COMPLETED - **B**

1 File no	2 Issuing office	No
3 IMM 0501 no. (If applicable)	4 a) Warrant issue date D M Y	4 b) Warrant expiry date D M Y / 5 Original warrant no. (If applicable)

I ISSUING OFFICE (Type or print clearly)

6 Loan recipient (Surname)	Address	
Given name(s)		7 Date of birth D M Y
8 Citizenship	9 Sex ☐ Male ☐ Female	10 Marital status ☐ Single ☐ Married ☐ Other (Specify) / 11 FOSS ID
12 Immigration document ☐ IMM 1000 ☐ Minister's Permit	13 IMM 1000 / Minister's Permit document no.	14 Special program / 15 Immigrant category

16 PERSONS COVERED BY THIS WARRANT			
SURNAME	GIVEN NAME(S)	DATE OF BIRTH D M Y	RELATIONSHIP TO LOAN RECIPIENT
a.			
b			
c.			
d.			
e.			

17 Name, address and telephone number of closest relative in Canada / Private sponsor / Group / City of destination	Immigration office or file no.

18 Right of landing fee calculation — Base amount

No. of persons 19 years of age or older _____ @ _____ = $ _____ (Transfer to (33) below)

II TO BE COMPLETED BY TRANSPORTATION COMPANY (Type or print clearly)

NOTE TO TRANSPORTATION COMPANY OR AUTHORIZED AGENT: Amounts are to be indicated in local currency only. Send copies with your sales report to the principle carrier who will obtain reimbursement from the Department of Citizenship and Immigration Canada, Ottawa, Ontario K1A 1L1. Return copy 4 immediately to the issuing office; give copy 2 to the loan recipient

19 Name and address of transportation company / authorized agent	20 Flight no.	21 Ticket numbers 1st _____ Last _____
22 Port of departure	23 Port of arrival	24 Date of departure D M Y / 25 Expected date of arrival D M Y

III TRANSPORTATION

26 COST OF PASSAGE			27 INLAND COSTS		
FARE AMOUNT	NO. OF PERSONS	TOTAL	FARE AMOUNT	NO. OF PERSONS	TOTAL
Full fare	@		Full fare	@	
Partial fare	@		Partial fare	@	
Infant fare	@		Infant fare	@	
Reduced fare	@		Reduced fare	@	
TOTAL COST OF PASSAGE (Transfer to 32(A) below) ▶			TOTAL INLAND COSTS (Transfer to 32(B) below) ▶		

28 Medical costs (Transfer to 32(C) below)	29 Service fee (Transfer to 32(D) below)	30 Other costs (Transfer to 32(E) below)	31 Costs in (30) - Specify
_____ Persons @ _____ Amount = $ _____ Total	_____ Persons @ _____ Amount = $ _____ Total		

32 Amount of warrant	A	B	C	D	E	F 32 (A+B+C+D+E)
Local currency						
Canadian currency						

33 Right of landing fee (From box 18) ▶	34 Warrant amount (From 32(F)) ▶	35 Total loan (33 + 34) ▶

FINANCE: Payments to transportation company must not exceed amount in box 32(F)	Signature of representative	Date D M Y

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Signature of person giving undertaking	Date D M Y	Signature of officer	Date D M Y

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION

(DISPONIBLE EN FRANÇAIS - IMM 0500 F)

IMM 0500 (11-1998) E

1 - ORIGINAL

Canada

SPECIMEN SPECIMEN

SAMPLE OF FORM IMM 0500 - IMMIGRANT LOANS

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

THIS WARRANT IS NOT TRANSFERABLE AND IS VALID ONLY WHEN SIGNED BY AN IMMIGRATION OFFICER

IMMIGRANT LOANS

(Right of Landing Fee Loan, Transportation Loan, Admissibility Loan)

PROTECTED WHEN COMPLETED - B

1 File no	2 Issuing office	No
3 IMM 0501 no. (If applicable)	4 a) Warrant issue date D M Y	4 b) Warrant expiry date D M Y / 5 Original warrant no. (If applicable)

I ISSUING OFFICE (Type or print clearly)

6 Loan recipient (Surname)	Address	
Given name(s)		7 Date of birth D M Y
8 Citizenship	9 Sex ☐ Male ☐ Female	10 Marital status ☐ Single ☐ Married ☐ Other (Specify) / 11 FOSS ID
12 Immigration document ☐ IMM 1000 ☐ Minister's Permit	13 IMM 1000 / Minister's Permit document no.	14 Special program / 15 Immigrant category

16 PERSONS COVERED BY THIS WARRANT	SURNAME	GIVEN NAME(S)	DATE OF BIRTH D M Y	RELATIONSHIP TO LOAN RECIPIENT
a				
b				
c.				
d.				
e.				

17 Name, address and telephone number of closest relative in Canada / Private sponsor / Group / City of destination	Immigration office or file no

18 Right of landing fee calculation — Fee amount

No. of persons 19 years of age or older _____ / _____ $ _____ (Transfer to (33) below)

II TO BE COMPLETED BY TRANSPORTATION COMPANY (Type or print clearly)

NOTE TO TRANSPORTATION COMPANY OR AUTHORIZED AGENT:
Amounts are to be indicated in local currency only. Send copy 1 with your sales report to the principle carrier who will obtain reimbursement from the Department of Citizenship and Immigration Canada, Ottawa, Ontario K1A 1L1. Return copy 4 immediately to the issuing office; give copy 2 to the loan recipient.

19 Name and address of transportation company / authorized agent	20 Flight no.	21 Ticket numbers 1st _____ Last _____
22 Port of departure	23 Port of arrival	24 Date of departure D M Y / 25 Expected date of arrival D M Y

III TRANSPORTATION

26 COST OF PASSAGE	FARE AMOUNT	NO. OF PERSONS	TOTAL	27 INLAND COSTS	FARE AMOUNT	NO. OF PERSONS	TOTAL
Full fare	@			Full fare	@		
Partial fare	@			Partial fare	@		
Infant fare	@			Infant fare	@		
Reduced fare	@			Reduced fare	@		
TOTAL COST OF PASSAGE (Transfer to 32(A) below) ▶				TOTAL INLAND COSTS (Transfer to 32(B) below) ▶			

28 Medical costs (Transfer to 32(C) below)	29 Service fee (Transfer to 32(D) below)	30 Other costs (Transfer to 32(E) below)	31 Costs in (30) - Specify
_____ (Persons) @ _____ (Amount) = $ _____ (Total)	_____ (Persons) @ _____ (Amount) = $ _____ (Total)		

32 Amount of warrant	A	B	C	D	E	F 32 (A+B+C+D+E)
Local currency						
Canadian currency						

33 Right of landing fee (From box 18) ▶	34 Warrant amount (From 32(F)) ▶	35 Total loan (33 + 34) ▶

FINANCE: Payments to transportation company must not exceed amount in box 32(F)	Signature of representative	Date D M Y

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Signature of person giving undertaking	Date D M Y	Signature of officer	Date D M Y

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION

(DISPONIBLE EN FRANÇAIS - IMM 0500 F)

IMM 0500 (11-1998) E

2 - APPLICANT

Canada

SPECIMEN SPECIMEN

SAMPLE OF FORM IMM 0500 - IMMIGRANT LOANS

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

THIS WARRANT IS NOT TRANSFERABLE AND IS VALID ONLY WHEN SIGNED BY AN IMMIGRATION OFFICER

IMMIGRANT LOANS
(Right of Landing Fee Loan, Transportation Loan, Admissibility Loan)

PROTECTED WHEN COMPLETED - **B**

1 File no.	2 Issuing office	No
3 IMM 0501 no. (If applicable)	4 a) Warrant issue date D M Y	4 b) Warrant expiry date D M Y / 5 Original warrant no. (If applicable)

I ISSUING OFFICE (Type or print clearly)

6 Loan recipient (Surname)	Address	
Given name(s)		7 Date of birth D M Y
8 Citizenship	9 Sex ☐ Male ☐ Female	10 Marital status ☐ Single ☐ Married ☐ Other (Specify) / 11 FOSS ID
12 Immigration document ☐ IMM 1000 ☐ Minister's Permit	13 IMM 1000 / Minister's Permit document no.	14 Special program / 15 Immigrant category

16 PERSONS COVERED BY THIS WARRANT — SURNAME	GIVEN NAME(S)	DATE OF BIRTH D M Y	RELATIONSHIP TO LOAN RECIPIENT
a.			
b.			
c			
d.			
e.			

17 Name, address and telephone number of closest relative in Canada / Private sponsor / Group / City of destination	Immigration office or file no.

18 Right of landing fee calculation — Fee amount

No. of persons 19 years of age or older _____ @ $ _____ = $ _____ (Transfer to (33) below)

II TO BE COMPLETED BY TRANSPORTATION COMPANY (Type or print clearly)

NOTE TO TRANSPORTATION COMPANY OR AUTHORIZED AGENT: Amounts are to be indicated in local currency only. Send copy 1 with your sales report to the principle carrier who will obtain reimbursement from the Department of Citizenship and Immigration Canada, Ottawa, Ontario K1A 1L1. Return copy 4 immediately to the issuing office; give copy 2 to the loan recipient.

19 Name and address of transportation company / authorized agent	20 Flight no.	21 Ticket numbers 1st _____ Last _____
22 Port of departure	23 Port of arrival	24 Date of departure D M Y / 25 Expected date of arrival D M Y

III TRANSPORTATION

26 COST OF PASSAGE — FARE AMOUNT	NO OF PERSONS	TOTAL	27 INLAND COSTS — FARE AMOUNT	NO OF PERSONS	TOTAL
Full fare	@		Full fare	@	
Partial fare	@		Partial fare	@	
Infant fare	@		Infant fare	@	
Reduced fare	@		Reduced fare	@	
TOTAL COST OF PASSAGE (Transfer to 32(A) below) ▶			TOTAL INLAND COSTS (Transfer to 32(B) below) ▶		

28 Medical costs (Transfer to 32(C) below)	29 Service fee (Transfer to 32(D) below)	30 Other costs (Transfer to 32(E) below)	31 Costs in (30) - Specify
_____ Persons @ _____ Amount = $ _____ Total	_____ Persons @ _____ Amount = $ _____ Total		

32 Amount of warrant	A	B	C	D	E	F 32 (A+B+C+D+E)
Local currency						
Canadian currency						

33 Right of landing fee (From box 18) ▶	34 Warrant amount (From 32(F)) ▶	35 Total loan (33 + 34) ▶

FINANCE: Payments to transportation company must not exceed amount in box 32(F)	Signature of representative	Date D M Y

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Signature of person giving undertaking	Date D M Y	Signature of officer	Date D M Y

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION

(DISPONIBLE EN FRANÇAIS - IMM 0500 F)

IMM 0500 (11-1998) E

3 - FILE

Canada

SPECIMEN SPECIMEN

SAMPLE OF FORM IMM 0500 - IMMIGRANT LOANS

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

THIS WARRANT IS NOT TRANSFERABLE AND IS VALID ONLY WHEN SIGNED BY AN IMMIGRATION OFFICER

IMMIGRANT LOANS

(Right of Landing Fee Loan, Transportation Loan, Admissibility Loan)

PROTECTED WHEN COMPLETED - B

1 File no.	2 Issuing office	No
3 IMM 0501 no. (If applicable)	4 a) Warrant issue date D M Y	4 b) Warrant expiry date D M Y / 5 Original warrant no. (If applicable)

I ISSUING OFFICE (Type or print clearly)

6 Loan recipient (Surname)	Address	
Given name(s)		7 Date of birth D M Y
8 Citizenship	9 Sex ☐ Male ☐ Female	10 Marital status ☐ Single ☐ Married ☐ Other (Specify) / 11 FOSS ID
12 Immigration document ☐ IMM 1000 ☐ Minister's Permit	13 IMM 1000 / Minister's Permit document no.	14 Special program / 15 Immigrant category

16 PERSONS COVERED BY THIS WARRANT — SURNAME	GIVEN NAME(S)	DATE OF BIRTH D M Y	RELATIONSHIP TO LOAN RECIPIENT
a			
b			
c			
d			
e			

17 Name, address and telephone number of closest relative in Canada / Private sponsor / Group / City of destination	Immigration office or file no.

18 Right of landing fee calculation

No. of persons 19 years of age or older _____ @ amount $ _____ (Transfer to (33) below)

SPECIMEN SPECIMEN

II TO BE COMPLETED BY TRANSPORTATION COMPANY (Type or print)

NOTE TO TRANSPORTATION COMPANY OR AUTHORIZED AGENT:
Amounts are to be indicated in local currency only. Send copy 1 with your sal[illegible] report to the principle carrier who will obtain reimbursement from the Department of Citizenship and Immigration Canada, Ot[illegible] K1A 1[illegible] Return copy 4 immediately to the issuing office; give copy 2 to the loan recipient.

19 Name and address of transportation company / authorized agent	20 Flight no.	21 Ticket numbers 1st _____ Last _____
22 Port of departure	23 Port of [illegible]al	24 Date of departure D M Y / 25 Expected date of arrival D M Y

III TRANSPORTATION

26 COST OF PASSAGE — FARE AMOUNT	NO OF PERSONS	TOTAL	27 INLAND COSTS — FARE AMOUNT	NO OF PERSONS	TOTAL
Full fare	@		Full fare	@	
Partial fare	@		Partial fare	@	
Infant fare	@		Infant fare	@	
Reduced fare	@		Reduced fare	@	
TOTAL COST OF PASSAGE (Transfer to 32(A) below) ▶			TOTAL INLAND COSTS (Transfer to 32(B) below) ▶		

28 Medical costs (Transfer to 32(C) below)	29 Service fee (Transfer to 32(D) below)	30 Other costs (Transfer to 32(E) below)	31 Costs in (30) - Specify
_____ (Persons) @ _____ (Amount) = $ _____ (Total)	_____ (Persons) @ _____ (Amount) = $ _____ (Total)		

32 Amount of warrant	A	B	C	D	E	F 32 (A+B+C+D+E)
Local currency						
Canadian currency						

33 Right of landing fee (From box 18) ▶	34 Warrant amount (From 32(F)) ▶	35 Total loan (33 + 34) ▶

FINANCE: Payments to transportation company must not exceed amount in box 32(F)	Signature of representative	Date D M Y

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Signature of person giving undertaking	Date D M Y	Signature of officer	Date D M Y

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION

(DISPONIBLE EN FRANÇAIS - IMM 0500 F)

IMM 0500 (11-1998) E

4 - CIC OR VISA OFFICE

Canada

SAMPLE OF FORM IMM 0500 - IMMIGRANT LOANS

CONDITIONS OF LOAN

TO PRINCIPAL CARRIER / TRANSPORTATION COMPANY:

Submit copy 1 along with duplicate invoice, not later than 90 days after the arrival of the passengers in Canada, to:
Chief Revenue Accounting
Citizenship and Immigration Canada (CIC)
Jean Edmonds North Tower
4th Floor
300 Slater Street, Ottawa, Ontario K1A 1L1

TO SIGNATORY OF LOAN AGREEMENT:

The information on this form is collected under the authority of the *Immigration Act* and *Regulations* to identify the applicant for the purpose of this agreement and to determine the applicant's eligibility to apply for a loan under section 45 of the *Immigration Regulations* 1978. This information will be stored in the relevant Personal Information Bank EIC PPU 305 (Transportation, Assistance and Admissibility Loans Program); it is protected under the *Privacy* and *Access to Information Act*.

CONDITIONS OF UNDERTAKING:

1 The law to be applied to this document is:

a) the *Immigration Act* and the *Immigration Regulations* 1978, and
b) the law of the province to which you are destined, as shown on the face of the document, or
c) if you are already residing in Canada, the law of the province in which you now reside.

2 The amount set out in box (35) on the face of this agreement represents the estimated principle amount of the loan made to you, for which you have applied, and which the minister of Citizenship and Immigration has loaned to you. The actual principle amount of this loan, if different from the amount stated in box (35), will be made known to you after the transportation company honouring this warrant and Revenue Accounting, NHQ Finance, audits your loan account.

3 The essential elements of section 48 of the *Immigration Regulations* are:

All loans made pursuant to section 45 of the Act will bear interest at a rate equal to the rate established by the minister of Finance for loans made to Crown Corporations and that is in effect on the first day of April next following the year in which the loan is approved. Where a loan is made pursuant to section 45 to any person who has a previous loan under that section that has not been repaid, the new loan shall bear interest at a rate equal to the rate of interest on the existing loan.

Interest on loans will be calculated daily and will be accrued

A) in the case of a loan for a person, other than a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the *Act* or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the *Act* who is selected by a visa officer under section 6 of the *Act* beginning;

a) 30 days after the day on which the person for whose benefit the loan is made arrives in Canada, in the case of loan referred to in section 45(1) or 45(3);
b) 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant in the case of a loan referred to in section 45(2); or,
c) on the earlier of thirty days after the day on which the person for whose benefit the loan is made arrives in Canada or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant, in the case of a loan referred to in section 45(2.1).

B) in the case of a loan for a person who is a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the *Act* or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the *Act* who is selected by a visa officer under section 6 of the *Act* beginning:

a) the first day of the thirteenth month after that person's arrival in Canada where the loan amount is not more that $1,200;
b) on the first day of the twenty-fifth month after that person's arrival in Canada where the loan amount is more than $1,200 but not more than $2,400;
c) the first day of the thirty-seventh month following that person's arrival in Canada where the loan amount is more than $2,400.

4. LOAN REPAYMENT:

This loan must be repaid in full, and payments must be made in Canadian currency on a regular basis commencing the earlier of thirty days after the day on which the immigrant for whose benefit the loan is made arrives in Canada, or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant and will continue:

a) where the amount of the loan is not more than $1,200 during a period of 12 months;
b) where the amount of the loan is more than $1,200 but not more than $2,400, during a period of 24 months;
c) where the amount of the loan is more than $2,400 but not more than $3,600, during a period of 36 months;
d) where the amount of the loan is more than $3,600 but not more than $4,800, during a period of 48 months;
e) where the amount of the loan is more than $4,800, during a period of 60 months.

5 You are to notify, in writing within 10 days of any change of address, the Chief Collection Services, NHQ Finance, CIC, Jean Edmonds North Tower, 3rd Floor, 300 Slater Street, Ottawa, Ontario K1A 1L1 or call toll-free 1-800-667-7301.

6. DEFAULT PAYMENTS:
Should there be a default in making payments, the next and subsequent regular interest calculations will be made on the unpaid balance of the loan, plus interest, shown in the account.

7 DEFERRAL OF PAYMENTS:
To discuss deferral arrangements you may call toll-free 1-800-667-7301.

8. You undertake to arrange repayment of this loan through a payroll deduction scheme with your employer.

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SPECIMEN

SAMPLE OF FORM IMM 0501- IMMIGRANT LOANS AND UNDERTAKING TO REPAY

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

APPLICATION NUMBER
NUMÉRO DE LA DEMANDE

IMMIGRANT LOANS AND UNDERTAKING TO REPAY
PRÊTS POUR IMMIGRANTS ET ENGAGEMENT À REMBOURSER

A. TYPE OR PRINT CLEARLY - DACTYLOGRAPHIER OU ÉCRIRE EN LETTRES MOULÉES

1 Issuing office - Bureau d'origine
2. C.I.C. file number - Numéro du dossier CIC
3. Original warrant number (if applicable) Numéro du bon original (si nécessaire)

B. PARTICULARS OF APPLICANT - RENSEIGNEMENTS SUR LE REQUÉRANT

4 Surname - Nom de famille | Given name(s) - Prénom(s)
5. Telephone no. - N° de téléphone ( ) -
6. Present address (in full) - Adresse actuelle (au long) | Postal code - Code postal
7 Date of birth - Date de naissance D - J M Y - A
8. Citizenship Citoyenneté
9. Details of admission to Canada - Détails sur l'admission au Canada Date D J M Y A | Place - Lieu
10. Immigrant category Catégorie d'immigrant
11. Social insurance no Numéro d'assurance sociale
12. Name and address of employer and occupation (if self-employed, give particulars) Nom et adresse de l'employeur et profession (s'il s'agit d'un travailleur autonome, précisez) | Postal code - Code postal
13. Name, address and relationship of closest relative other than persons in (D) below Nom et adresse du plus proche parent et lien de parenté avec celui-ci, excluant les personnes visées en (D) ci-après
14. Has applicant ever been approved for a Transportation or a ROLF Loan? Le requérant a-t-il déjà obtenu un prêt de transport ou de DEPE? ☐ Yes Oui ☐ No Non If yes, give account number Dans l'affirmative, indiquer le numéro de compte
15. If you have been approved for a Transportation or a ROLF Loan, are you presently paying on the loan(s)? Si vous avez obtenu un prêt de transport ou de DEPE, êtes-vous en train de le rembourser? ☐ Yes Oui ☐ No Non
16. If you are not presently paying on a previous loan, please specify reason - Si vous n'êtes pas en train de rembourser un prêt antérieur, indiquer pourquoi : ☐ Loan(s) paid off Le(s) prêt(s) est (sont) remboursé(s) ☐ Loan(s) deferred Il s'agit d'un (de) prêt(s) à remboursement différé ☐ Other, please specify Autre raison, préciser _____

C. TRANSPORTATION COMPANY PREFERRED - TRANSPORTEUR PRÉFÉRÉ

17 Name and address of transportation Co. - Nom et adresse du transporteur
18. Name and address of sub-agent in Canada Nom et adresse du sous-agent au Canada

D. PARTICULARS OF PERSON(S) COVERED BY THIS APPLICATION FOR A LOAN
RENSEIGNEMENTS SUR LA (LES) PERSONNE(S) VISÉE(S) PAR CETTE DEMANDE DE PRÊT

19. Surname Nom de famille	Given name(s) Prénom(s)	Date of birth Date de naissance Day Jour	Month Mois	Year Année	Relationship to applicant Lien de parenté avec le requérant	Citizenship Citoyenneté
a.						
b.						
c.						
d.						
e.						
f.						
g.						
h.						

20. Home address (in full) of person(s) listed in (D) above - Adresse domiciliaire (au long) des personnes dont le nom figure en (d) ci-dessus.

21. Responsible visa office - Bureau des visas compétent
22. IMM 1344 ☐ Attached Ci-joint
23. Date IMM 1344 forwarded IMM 1344 envoyé le D - J M Y - A

E. PARTICULARS OF LOAN - RENSEIGNEMENTS SUR LE PRÊT

24. Estimated transportation and/or ROLF cost Coût estimatif du transport ou de DEPE $
25. Approximate amount of loan Montant approximatif du prêt $

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Je prends note des modalités du prêt indiquées au recto de ce formulaire et m'engage à m'y conformer. Je prends note aussi que l'intérêt sur ce prêt courra selon les dispositions de l'article 48 du *Règlement sur l'immigration* de 1978, dont les éléments importants sont reproduits au recto de ce formulaire, et que le taux d'intérêt en vigueur le jour au cours duquel mon prêt est approuvé figurera sur le premier relevé de compte mensuel qui me sera envoyé par la poste par le ministère de la Citoyenneté et de l'Immigration du Canada.

Signature of person giving undertaking
Signature de la personne qui prend l'engagement

Signature of witness
Signature du témoin

Signature of authorizing officer
Signature du fonctionnaire autorisé

DATE LOAN APPROVED
DATE D'APPROBATION DU PRÊT D J M Y A

IMM 0501 (12-1998) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION

Canada

Mail to:
Chief Revenue Accounting
NHQ Finance, Citizenship and Immigration Canada
Jean Edmonds North Tower, 4th Floor
300 Slater Street
Ottawa, Ontario K1A 1L1

Courrier à :
Chef, Comptabilité du revenu
Services financiers, AC, Citoyenneté et Immigration Canada
Tour Jean Edmonds nord, 4ième étage
300 rue Slater
Ottawa (Ontario) K1A 1L1

ORIGINAL - 1

SPECIMEN SPECIMEN

SAMPLE OF FORM IMM 0501 - IMMIGRANT LOANS AND UNDERTAKING TO REPAY

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

APPLICATION NUMBER
NUMÉRO DE LA DEMANDE

IMMIGRANT LOANS AND UNDERTAKING TO REPAY
PRÊTS POUR IMMIGRANTS ET ENGAGEMENT À REMBOURSER

A. TYPE OR PRINT CLEARLY - DACTYLOGRAPHIER OU ÉCRIRE EN LETTRES MOULÉES

1. Issuing office - Bureau d'origine
2. C.I.C. file number - Numéro du dossier CIC
3. Original warrant number (if applicable) Numéro du bon original (si nécessaire)

B. PARTICULARS OF APPLICANT - RENSEIGNEMENTS SUR LE REQUÉRANT

4. Surname - Nom de famille — Given name(s) - Prénom(s)
5. Telephone no. - N° de téléphone ( ) -
6. Present address (in full) - Adresse actuelle (au long) — Postal code - Code postal
7. Date of birth - Date de naissance D - J M Y - A
8. Citizenship Citoyenneté
9. Details of admission to Canada - Détails sur l'admission au Canada — Date D - J M Y - A — Place - Lieu
10. Immigrant category Catégorie d'immigrant
11. Social insurance no. Numéro d'assurance sociale
12. Name and address of employer and occupation (if self-employed, give particulars) Nom et adresse de l'employeur et profession (s'il s'agit d'un travailleur autonome, précisez) — Postal code - Code postal
13. Name, address and relationship of closest relative other than persons in (D) below Nom et adresse du plus proche parent et lien de parenté avec celui-ci, excluant les personnes visées en (D) ci-après
14. Has applicant ever been approved for a Transportation or a ROLF Loan? Le requérant a-t-il déjà obtenu un prêt de transport ou de DEPE?
☐ Yes Oui ☐ No Non — If yes, give account number Dans l'affirmative, indiquer le numéro de compte
15. If you have been approved for a Transportation or a ROLF Loan, are you presently paying on the loan(s)? Si vous avez obtenu un prêt de transport ou de DEPE, êtes-vous en train de le rembourser? ☐ Yes Oui ☐ No Non
16. If you are not presently paying on a previous loan, please specify reason - Si vous n'êtes pas en train de rembourser un prêt antérieur, indiquer pourquoi :
☐ Loan(s) paid off Le(s) prêt(s) est (sont) remboursé(s) ☐ Loan(s) deferred Il s'agit d'un (de) prêt(s) à remboursement différé ☐ Other, please specify Autre raison, préciser _____

C. TRANSPORTATION COMPANY PREFERRED - TRANSPORTEUR PRÉFÉRÉ

17. Name and address of transportation Co. - Nom et adresse du transporteur
18. Name and address of sub-agent in Canada Nom et adresse du sous-agent au Canada

D. PARTICULARS OF PERSON(S) COVERED BY THIS APPLICATION FOR A LOAN
RENSEIGNEMENTS SUR LA (LES) PERSONNE(S) VISÉE(S) PAR CETTE DEMANDE DE PRÊT

19

	Surname Nom de famille	Given name(s) Prénom(s)	Date of birth Date de naissance Day Jour	Month Mois	Year Année	Relationship to applicant Lien de parenté avec le requérant	Citizenship Citoyenneté
a.							
b.							
c.							
d.							
e.							
f.							
g.							
h.							

SPECIMEN SPECIMEN

20. Home address (in full) of person(s) listed in (D) above - Adresse domiciliaire (au long) des personnes dont le nom figure en (d) ci-dessus.
21. Responsible visa office - Bureau des visas compétent
22. IMM 1344 ☐ Attached Ci-joint
23. Date IMM 1344 forwarded IMM 1344 envoyé le D - J M Y - A

E. PARTICULARS OF LOAN - RENSEIGNEMENTS SUR LE PRÊT

24. Estimated transportation and/or ROLF cost Coût estimatif du transport ou de DEPE $
25. Approximate amount of loan Montant approximatif du prêt $

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

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Signature of person giving undertaking
Signature de la personne qui prend l'engagement

Signature of witness
Signature du témoin

Signature of authorizing officer
Signature du fonctionnaire autorisé

DATE LOAN APPROVED
DATE D'APPROBATION DU PRÊT D - J M Y - A

IMM 0501 (12-1998) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION

Canada

GIVE TO APPLICANT
À REMETTRE AU REQUÉRANT - 2

SAMPLE OF FORM IMM 0501 - IMMIGRANT LOANS AND UNDERTAKING TO REPAY

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

APPLICATION NUMBER
NUMÉRO DE LA DEMANDE

IMMIGRANT LOANS AND UNDERTAKING TO REPAY
PRÊTS POUR IMMIGRANTS ET ENGAGEMENT À REMBOURSER

A. TYPE OR PRINT CLEARLY - DACTYLOGRAPHIER OU ÉCRIRE EN LETTRES MOULÉES

1. Issuing office - Bureau d'origine
2. C.I.C. file number - Numéro du dossier CIC
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5. Telephone no. - N° de téléphone ( ) -
6. Present address (in full) - Adresse actuelle (au long) — Postal code - Code postal
7. Date of birth - Date de naissance D - J M Y - A
8. Citizenship Citoyenneté
9. Details of admission to Canada - Détails sur l'admission au Canada — Date D - J M Y A — Place - Lieu
10. Immigrant category Catégorie d'immigrant
11. Social insurance no. Numéro d'assurance sociale
12. Name and address of employer and occupation (if self-employed, give particulars) Nom et adresse de l'employeur et profession (s'il s'agit d'un travailleur autonome, précisez) — Postal code - Code postal
13. Name, address and relationship of closest relative other than persons in (D) below Nom et adresse du plus proche parent et lien de parenté avec celui-ci, excluant les personnes visées en (D) ci-après
14. Has applicant ever been approved for a Transportation or a ROLF Loan? Le requérant a-t-il déjà obtenu un prêt de transport ou de DEPE? ☐ Yes Oui ☐ No Non — If yes, give account number Dans l'affirmative, indiquer le numéro de compte
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17. Name and address of transportation Co. - Nom et adresse du transporteur
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RENSEIGNEMENTS SUR LA (LES) PERSONNE(S) VISÉE(S) PAR CETTE DEMANDE DE PRÊT

19.

	Surname Nom de famille	Given name(s) Prénom(s)	Date of birth Date de naissance Day Jour	Month Mois	Year Année	Relationship to applicant Lien de parenté avec le requérant	Citizenship Citoyenneté
a.							
b.							
c.							
d.							
e							
f							
g.							
h							

SPECIMEN SPECIMEN

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21. Responsible visa office - Bureau des visas compétent
22. IMM 1344 ☐ Attached Ci-joint
23. Date IMM 1344 forwarded IMM 1344 envoyé le D - J M Y A

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24. Estimated transportation and/or ROLF cost Coût estimatif du transport ou de DEPE $
25. Approximate amount of loan Montant approximatif du prêt $

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Je prends note des modalités du prêt indiquées au recto de ce formulaire et m'engage à m'y conformer. Je prends note aussi que l'intérêt sur ce prêt courra selon les dispositions de l'article 48 du *Règlement sur l'immigration* de 1978, dont les éléments importants sont reproduits au recto de ce formulaire, et que le taux d'intérêt en vigueur le jour au cours duquel mon prêt est approuvé figurera sur le premier relevé de compte mensuel qui me sera envoyé par la poste par le ministère de la Citoyenneté et de l'Immigration du Canada.

Signature of person giving undertaking
Signature de la personne qui prend l'engagement

Signature of witness
Signature du témoin

Signature of authorizing officer
Signature du fonctionnaire autorisé

DATE LOAN APPROVED
DATE D'APPROBATION DU PRÊT D - J M Y A

IMM 0501 (12-1998) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION

Canada

FILE COPY - 3
À VERSER DANS LES DOSSIERS

SAMPLE OF FORM IMM 0501- IMMIGRANT LOANS AND UNDERTAKING TO REPAY

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

APPLICATION NUMBER
NUMÉRO DE LA DEMANDE

IMMIGRANT LOANS AND UNDERTAKING TO REPAY
PRÊTS POUR IMMIGRANTS ET ENGAGEMENT À REMBOURSER

A. TYPE OR PRINT CLEARLY - DACTYLOGRAPHIER OU ÉCRIRE EN LETTRES MOULÉES

1 Issuing office - Bureau d'origine

2. C.I.C. file number - Numéro du dossier CIC

3. Original warrant number (if applicable) Numéro du bon original (si nécessaire)

B. PARTICULARS OF APPLICANT - RENSEIGNEMENTS SUR LE REQUÉRANT

4 Surname - Nom de famille | Given name(s) - Prénom(s)

5. Telephone no. - N° de téléphone ( ) -

6 Present address (in full) - Adresse actuelle (au long) | Postal code - Code postal

7. Date of birth - Date de naissance D - J M Y - A

8. Citizenship Citoyenneté

9. Details of admission to Canada - Détails sur l'admission au Canada Date D - J M Y - A | Place - Lieu

10. Immigrant category Catégorie d'immigrant

11 Social insurance no. Numéro d'assurance sociale

12. Name and address of employer and occupation (if self-employed, give particulars) Nom et adresse de l'employeur et profession (s'il s'agit d'un travailleur autonome, précisez) | Postal code - Code postal

13. Name, address and relationship of closest relative other than persons in (D) below Nom et adresse du plus proche parent et lien de parenté avec celui-ci, excluant les personnes visées en (D) ci-après

14 Has applicant ever been approved for a Transportation or a ROLF Loan? Le requérant a-t-il déjà obtenu un prêt de transport ou de DEPE?
☐ Yes Oui ☐ No Non If yes, give account number Dans l'affirmative, indiquer le numéro de compte

15. If you have been approved for a Transportation or a ROLF Loan, are you presently paying on the loan(s)? Si vous avez obtenu un prêt de transport ou de DEPE, êtes-vous en train de le rembourser? ☐ Yes Oui ☐ No Non

16 If you are not presently paying on a previous loan, please specify reason - Si vous n'êtes pas en train de rembourser un prêt antérieur, indiquer pourquoi :
☐ Loan(s) paid off Le(s) prêt(s) est (sont) remboursé(s) ☐ Loan(s) deferred Il s'agit d'un (de) prêt(s) à remboursement différé ☐ Other, please specify Autre raison, préciser _____

C. TRANSPORTATION COMPANY PREFERRED - TRANSPORTEUR PRÉFÉRÉ

17 Name and address of transportation Co. - Nom et adresse du transporteur

18. Name and address of sub-agent in Canada Nom et adresse du sous-agent au Canada

D. PARTICULARS OF PERSON(S) COVERED BY THIS APPLICATION FOR A LOAN
RENSEIGNEMENTS SUR LA (LES) PERSONNE(S) VISÉE(S) PAR CETTE DEMANDE DE PRÊT

19.	Surname Nom de famille	Given name(s) Prénom(s)	Date of birth Date de naissance Day Jour	Month Mois	Year Année	Relationship to applicant Lien de parenté avec le requérant	Citizenship Citoyenneté
a.							
b							
c.							
d							
e							
f							
g							
h.							

SPECIMEN SPECIMEN

20 Home address (in full) of person(s) listed in (D) above - Adresse domiciliaire (au long) des personnes dont le nom figure en (d) ci-dessus.

21 Responsible visa office - Bureau des visas compétent

22. IMM 1344 ☐ Attached Ci-joint

23. Date IMM 1344 forwarded IMM 1344 envoyé le D J M Y A

E. PARTICULARS OF LOAN - RENSEIGNEMENTS SUR LE PRÊT

24 Estimated transportation and/or ROLF cost Coût estimatif du transport ou de DEPE $

25 Approximate amount of loan Montant approximatif du prêt $

I understand, and agree to abide by, the terms of the loan as set out on the reverse of this form. I also understand that interest will be accrued on this loan in accordance with the provisions of section 48 of the *Immigration Regulations* 1978, the essential elements of which appear on the reverse of this form and that the rate of interest in effect on the date that my loan is approved will appear on the first monthly statement of account mailed to me by the Department of Citizenship and Immigration Canada.

Je prends note des modalités du prêt indiquées au recto de ce formulaire et m'engage à m'y conformer. Je prends note aussi que l'intérêt sur ce prêt courra selon les dispositions de l'article 48 du *Règlement sur l'immigration* de 1978, dont les éléments importants sont reproduits au recto de ce formulaire, et que le taux d'intérêt en vigueur le jour au cours duquel mon prêt est approuvé figurera sur le premier relevé de compte mensuel qui me sera envoyé par la poste par le ministère de la Citoyenneté et de l'Immigration du Canada.

Signature of person giving undertaking
Signature de la personne qui prend l'engagement

Signature of witness
Signature du témoin

Signature of authorizing officer
Signature du fonctionnaire autorisé

DATE LOAN APPROVED
DATE D'APPROBATION DU PRÊT D - J M Y - A

IMM 0501 (12-1998) B

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF CITIZENSHIP AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION

Canada

POST ABROAD - 4
BUREAU À L'ÉTRANGER

SAMPLE OF FORM IMM 0501- IMMIGRANT LOANS AND UNDERTAKING TO REPAY

CONDITIONS OF LOANS AND UNDERTAKING

TO SIGNATORY OF LOAN AGREEMENT:

The information on this form is collected under the authority of the *Immigration Act* and *Regulations* to identify the applicant for the purpose of this agreement and to determine the applicant's eligibility to apply for a loan under section 45 of the *Immigration Regulations* 1978. This information will be stored in the relevant Personal Information Bank EIC PPU 305 (Transportation, Assistance and Admissibility Loans Program); it is protected under the *Privacy and Access to Information Act*

CONDITIONS OF UNDERTAKING:

1 The law to be applied to this document is:

a) the *Immigration Act* and the *Immigration Regulations* 1978, and
b) the law of the province to which you are destined, as shown on the face of the document, or
c) if you are already residing in Canada the law of the province in which you now reside.

2 The amount set out in box (25) on the face of this agreement represents the estimated principle amount of the loan made to you, for which you have applied, and which the Minister of Citizenship and Immigration has loaned to you. The actual principle amount of this loan, if different from the amount stated in Box (25), will be made known to you after the transportation company honouring this warrant and Revenue Accounting, NHQ Finance, CIC audits your loan account.

3 The essential elements of section 48 of the *Immigration Regulations* are:

All loans made pursuant to section 45 of the Act will bear interest at a rate equal to the rate established by the Minister of Finance for loans made to Crown Corporations and that is in effect on the first day of January in the year in which the loan is approved. Where a loan is made pursuant to section 45 to any person who has a previous loan under that section that has not been repaid the new loan shall bear interest at a rate equal to the rate of interest on the existing loan.

Interest on loans will be calculated daily and will be accrued:

A) In the case of a loan for a person, other than a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the Act or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the Act who is selected by a visa officer under section 6 of the Act beginning:

a) 30 days after the day on which the person for whose benefit the loan is made arrives in Canada, in the case of a loan referred to in section 45(1) or 45(3);
b) 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant in the case of a loan referred to in section 45(2); or,
c) on the earlier of thirty days after the day on which the person for whose benefit the loan is made arrives in Canada or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant, in the case of a loan referred to in section 45(2.1).

B) In the case of a loan for a person who is a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the Act or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the Act who is selected by a visa officer under section 6 of the Act beginning:

a) the first day of the thirteenth month after that person's arrival in Canada where the loan amount is not more than $1,200;
b) on the first day of the twenty-fifth month after that person's arrival in Canada where the loan amount is more than $1,200 but not more than $2,400;
c) the first day of the thirty-seventh month following that person's arrival in Canada where the loan amount is more than $2,400.

4. **LOAN REPAYMENT:**

This loan must be repaid in full, and payments must be made in Canadian currency on a regular basis commencing the earlier of 30 days after the day on which the immigrant for whose benefit the loan is made arrives in Canada, or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant and will continue:

a) where the amount of the loan is not more than $1,200 during a period of 12 months,
b) where the amount of the loan is more than $1,200 but not more than $2,400, during a period of 24 months;
c) where the amount of the loan is more than $2,400 but not more than $3,600, during a period of 36 months;
d) where the amount of the loan is more than $3,600 but not more than $4,800, during a period of 48 months;
e) where the amount of the loan is more than $4,800, during a period of 60 months.

5. You are to notify, in writing, within 10 days of any change of address, the Chief Revenue Accounting, NHQ Finance, CIC, Jean Edmonds North Tower, 4th Floor, 300 Slater Street, Ottawa, Ontario K1A 1L1 or call toll-free 1-800-667-7301.

6 **DEFAULT PAYMENTS:**
Should there be a default in making payments, the next and subsequent regular interest calculations will be made on the unpaid balance of the loan, plus interest, shown in the account.

7. **DEFERRAL OF PAYMENTS:**
To discuss deferral arrangements you may call toll-free 1-800-667-7301.

8. You undertake to arrange repayment of this loan through a payroll deduction scheme with your employer.

CONDITIONS DU PRÊT ET ENGAGEMENT

POUR LE SIGNATAIRE DE L'ENGAGEMENT :

Les renseignements fournis sur ce formulaire sont recueillis en vertu de la *Loi sur l'immigration* et de son *Règlement* d'application pour établir l'identité du requérant aux fins du présent engagement et pour déterminer l'admissibilité du requérant à demander un prêt en vertu de l'article 45 du *Règlement sur l'immigration* de 1978. Ces renseignements seront versés au Fichier de renseignements personnels EIC PPU 305 (Programmes des prêts de transport, d'admissibilité et d'aide à l'établissement); ils sont protégés en vertu de la *Loi sur la protection des renseignements personnels* et de la *Loi sur l'accès à l'information*.

MODALITÉS DE L'ENGAGEMENT :

1. Le contenu de ce document est régi par :

a) la *Loi sur l'immigration* et le *Règlement sur l'immigration* de 1978 et par
b) la législation de la province où vous vous établirez, tel qu'indiqué au recto de ce document ou,
c) si vous résidez au Canada, la législation de la province où vous résidez actuellement

2. Le montant indiqué à la case 25 au recto de cet engagement représente le montant estimé du prêt que vous avez demandé et qui vous est consenti par le ministre de la Citoyenneté et de l'Immigration. Le montant exact du prêt, s'il est différent de celui indiqué à la case 25, vous sera communiqué une fois que le transporteur aura honoré ce bon et que la Division de la comptabilité du revenu, Services financiers, AC, CIC aura vérifié votre compte de prêts.

3. Eléments importants de l'article 48 du *Règlement sur l'immigration* :

Tous les prêts consentis selon l'article 45 de la Loi portent intérêt au taux que le ministre des Finances a établi pour des prêts qu'il accorde aux sociétés de la Couronne et qui est en vigueur le premier janvier de l'année au cours de laquelle le prêt a été accordé. Lorsqu'un prêt est consenti selon l'article 45 à toute personne qui, en vertu de cet article, a déjà obtenu un prêt qui n'a pas été remboursé, ce nouveau prêt doit porter intérêt à un taux égal au taux d'intérêt exigible sur le prêt en cours.

L'intérêt sur les prêts sera calculé quotidiennement et commencera à courir :
A) dans le cas d'un prêt consenti à une personne autre qu'un réfugié au sens de la Convention, un membre d'une catégorie précisée en vertu de l'alinéa 114(1)d) de la Loi ou un membre d'une catégorie precisee en vertu de l'alinéa 114(1)e) de la Loi qui est selectionné par un agent des visas aux termes de l'article 6 de la Loi :

a) le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada, dans le cas d'un prêt visé aux paragraphes 45(1) ou (3),
b) le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur, dans le cas d'un prêt visé au paragraphe 45(2); ou
c) à la première des deux dates suivantes : le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada ou le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur, dans le cas d'un prêt visé au paragraphe 45(2.1).

B) dans le cas d'un prêt consenti à une personne qui est un réfugié au sens de la Convention, un membre d'une catégorie précisée en vertu de l'alinéa 114(1)d) de la Loi ou un membre d'une catégorie précisée en vertu de l'alinéa 114(1)e) de la Loi qui est sélectionné par un agent des visas aux termes de l'article 6 de la Loi :

a) le premier jour du treizième mois suivant l'arrivée de la personne au Canada si le prêt est d'au plus 1 200 $;
b) le premier jour du vingt-cinquième mois suivant l'arrivée de la personne au Canada lorsque le prêt est de plus de 1 200 $ mais d'au plus 2 400 $;
c) le premier jour du trente-septième mois suivant l'arrivée de la personne au Canada lorsque le prêt est de plus de 2 400 $.

4. **REMBOURSEMENT DU PRÊT :**

Ce prêt doit être intégralement remboursé en devises canadiennes au moyen de mensualités, la première étant exigible à la première des deux dates suivantes : le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada ou le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur. Ce prêt est remboursable au moyen :

a) de 12 mensualités, s'il est d'au plus 1 200 $;
b) de 24 mensualités, s'il est de plus de 1 200 $, mais d'au plus 2 400 $;
c) de 36 mensualités, s'il est de plus de 2 400 $, mais d'au plus 3 600 $;
d) de 48 mensualités, s'il est de plus de 3 600 $, mais d'au plus 4 800 $;
e) de 60 mensualités, s'il est de plus de 4 800 $.

5. Vous devez aviser par écrit de tout changement d'adresse dans un délai de dix jours le Chef, Comptabilité du revenu, Services financiers - AC, CIC, Tour Jean Edmonds nord, 4ième étage, 300 rue Slater, Ottawa (Ontario) K1A 1L1 ou téléphoner sans frais au 1-800-667-7301.

6. **DÉFAUT DE PAIEMENT :**
En cas de défaut de paiement, l'intérêt subséquent est calculé sur le total du solde à rembourser, ce qui comprend les intérêts accumulés.

7. **PAIEMENTS DIFFÉRÉS :**
Pour discuter de paiements différés, veuillez téléphoner sans frais au 1-800-667-7301.

8. Vous vous engagez à rembourser ce prêt en autorisant votre employeur à retenir à la source les versements voulus.

SPECIMEN SPECIMEN

SAMPLE OF FORM IMM 5355 - IMMIGRANT LOANS (ASSISTANCE LOAN)

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

IMMIGRANT LOANS (ASSISTANCE LOAN)
PRÊT POUR IMMIGRANTS (PRÊT D'AIDE À L'ÉTABLISSEMENT)

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

CIC	FUND CENTRE - CENTRE FINANCIER ►	CIC FILE NO - NUMÉRO DE RÉFÉRENCE DU CIC

T.L. WARRANT NO. PRÊT DE TRANSPORT / N° DU BON ►	LOAN AMOUNT MONTANT DU PRÊT ►	DATE LOAN ADVANCED DATE DU PRÊT ► D-J M Y-A

FAMILY NAME NOM DE FAMILLE | GIVEN NAME(S) - PRENOM(S)

STREET NAME AND NO. - N° ET NOM DE LA RUE | APT. NO. - N° D'APP.

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	SOCIAL INSURANCE NO. N° D'ASSURANCE SOCIALE

DATE OF BIRTH DATE DE NAISSANCE ► D-J M Y-A	SEX - SEXE	MARITAL STATUS - ETAT MATRIMONIAL	TELEPHONE TÉLÉPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PRESENT CITIZENSHIP CITOYENNETÉ ACTUELLE	DETAILS OF ADMISSION TO CANADA PRÉCISIONS SUR L'ADMISSION AU CANADA ► DATE D-J M Y-A	PLACE - POINT D'ENTRÉE	CLASS - CATÉGORIE

HEAD OF HOUSEHOLD CHEF DE FAMILLE ☐ YES OUI ☐ NO NON | NAME OF HEAD OF HOUSEHOLD - NOM DU CHEF DE FAMILLE

NAME OF EMPLOYER - NOM DE L'EMPLOYEUR

ADDRESS OF EMPLOYER - ADRESSE DE L'EMPLOYEUR

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TELEPHONE - TÉLÉPHONE	EMPLOYEE OCCUPATION - PROFESSION DE L'EMPLOYÉ(E)

NAME OF CLOSEST FRIEND (OR FAMILY MEMBER) NOT LIVING WITH YOU
NOM DU (DE LA) PLUS PROCHE AMI(E) (OU MEMBRE DE LA FAMILLE) QUI NE DEMEURE PAS AVEC VOUS ►

ADDRESS ADRESSE

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TELEPHONE TÉLÉPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PURPOSE OF LOAN OBJET DU PRÊT ►
☐ BASIC NEEDS - BESOINS ESSENTIELS
☐ BASIC HOUSEHOLD - EFFETS MOBILIERS ESSENTIELS
☐ LABOUR MARKET ACCESS - BESOINS LIÉS À L'EMPLOI

FINANCIAL CODE - CODE FINANCIER

COMP.	FUND FONDS	ACTIVITY ACTIVITÉ	G/L ACCT COMPTE GÉNÉRAL	FUND CENTRE CENTRE FINANCIER

REMARKS - OBSERVATIONS

SPECIMEN
SPECIMEN

I UNDERSTAND, AND AGREE TO ABIDE BY, THE TERMS OF THE LOAN AS SET OUT ON THE REVERSE OF THIS FORM. I ALSO UNDERSTAND THAT INTEREST WILL BE ACCRUED ON THIS LOAN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 48 OF THE IMMIGRATION REGULATIONS, 1978, THE ESSENTIAL ELEMENTS OF WHICH APPEAR ON THE REVERSE OF THIS FORM AND THAT THE RATE OF INTEREST IN EFFECT ON THE DATE THAT MY LOAN IS APPROVED WILL APPEAR ON THE FIRST MONTHLY STATEMENT OF ACCOUNT MAILED TO ME BY THE DEPARTMENT OF CITIZENSHIP AND IMMIGRATION.

JE PRENDS NOTE DES MODALITÉS DU PRÊT INDIQUÉES AU RECTO DE CE FORMULAIRE ET M'ENGAGE A M'Y CONFORMER. JE PRENDS NOTE AUSSI QUE L'INTÉRÊT SUR CE PRÊT COURRA SELON LES DISPOSITIONS DE L'ARTICLE 48 DU RÈGLEMENT SUR L'IMMIGRATION DE 1978, DONT LES ELEMENTS IMPORTANTS SONT REPRODUITS AU RECTO DE CE FORMULAIRE, ET QUE LE TAUX D'INTÉRÊT EN VIGUEUR LE JOUR AU COURS DUQUEL MON PRÊT EST APPROUVÉ FIGURERA SUR LE PREMIER RELEVÉ DE COMPTE MENSUEL QUI ME SERA ENVOYÉ PAR LA POSTE PAR LE MINISTÈRE DE LA CITOYENNETÉ ET DE L'IMMIGRATION.

SIGNATURE OF APPLICANT SIGNATURE DU (DE LA) REQUERANT(E) ►	DATE D J M Y A	SIGNATURE OF SPOUSE OR COMMON-LAW SPOUSE SIGNATURE DE L'ÉPOUX(SE) OU DU (DE LA) CONJOINT(E) DE FAIT ►	DATE D J M Y A
AUTHORIZED OFFICER FONCTIONNAIRE AUTORISÉ	DATE	APPROVING SUPERVISOR SUPERVISEUR AUTORISÉ	DATE
WITNESS TÉMOIN ►	D J M Y-A	►	D J M Y-A
DG APPROVAL APPROBATION DU DG			DATE
LABOUR MARKET ACCESS OVER $1000 PLUS DE 1000 $ AU TITRE DES BESOINS LIÉS À L'EMPLOI ►			D J M Y-A

IMM 5355 (04-1998) B

Canada

MAIL TO:
CHIEF REVENUE ACCOUNTING
JEAN EDMONDS TOWER NORTH
300 SLATER STREET, 4th FLOOR
OTTAWA ON K1A 1L1

ENVOYEZ AU :
CHEF, COMPTABILITÉ DU REVENU
TOUR JEAN EDMONDS NORD
300 RUE SLATER, 4e ÉTAGE
OTTAWA ON K1A 1L1

FINANCE
FINANCES 1

Citizenship and Immigration Canada | Citoyenneté et Immigration Canada

IMMIGRATION PROGRAM - ACCOUNTS RECEIVABLE SYSTEM
ADDITIONAL RAA - ADDRESS

PROGRAMME D'IMMIGRATION - SYSTÈME DE COMPTES À RECEVOIR
AAR - SUPPLÉMENTAIRE - ADRESSE

TR	1 2 3

BATCH NO. / N° DU LOT ▶ 3	CLASSIFICATION ▶ 19

ACCOUNT NO. - N° DU COMPTE ▶ 23	NAME TAG - NOM AGRÉGÉ ▶ 32	LOAN AMOUNT - MONTANT DU PRÊT 37	EFFECTIVE DATE / DATE D'ENTRÉE EN VIGUEUR ▶ 47 D-J M Y-A

STREET NAME AND NO. - N° ET NOM DE LA RUE 53	APT. NO. - N° D'APP.
CITY - VILLE 113	PROVINCE 1
POSTAL CODE - CODE POSTAL 136	SIN - NAS 142

SPECIMEN
SPECIMEN

IMM 5355 (04-1998) B

Canada

MAIL TO:
CHIEF REVENUE ACCOUNTING
JEAN EDMONDS TOWER NORTH
300 SLATER STREET, 4th FLOOR
OTTAWA ON K1A 1L1

ENVOYEZ AU :
CHEF, COMPTABILITÉ DU REVENU
TOUR JEAN EDMONDS NORD
300 RUE SLATER, 4e ÉTAGE
OTTAWA ON K1A 1L1

FINANCE
FINANCES 2

SAMPLE OF FORM IMM 5355 - IMMIGRANT LOANS (ASSISTANCE LOAN)

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

IMMIGRANT LOANS (ASSISTANCE LOAN)
PRÊT POUR IMMIGRANTS (PRÊT D'AIDE À L'ÉTABLISSEMENT)

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

CIC	FUND CENTRE - CENTRE FINANCIER ►	CIC FILE NO - NUMÉRO DE RÉFÉRENCE DU CIC

T.L. WARRANT NO. / PRÊT DE TRANSPORT / N° DU BON ►	LOAN AMOUNT / MONTANT DU PRÊT ►	DATE LOAN ADVANCED / DATE DU PRÊT ► D-J M Y-A

FAMILY NAME - NOM DE FAMILLE	GIVEN NAME(S) - PRÉNOM(S)	

STREET NAME AND NO. - N° ET NOM DE LA RUE — APT. NO. - N° D'APP

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	SOCIAL INSURANCE NO. - N° D'ASSURANCE SOCIALE

DATE OF BIRTH / DATE DE NAISSANCE ► D-J M Y-A	SEX - SEXE	MARITAL STATUS - ÉTAT MATRIMONIAL	TELEPHONE / TÉLÉPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PRESENT CITIZENSHIP / CITOYENNETÉ ACTUELLE	DETAILS OF ADMISSION TO CANADA / PRÉCISIONS SUR L'ADMISSION AU CANADA ►	DATE D-J M Y-A	PLACE - POINT D'ENTRÉE	CLASS - CATÉGORIE

HEAD OF HOUSEHOLD / CHEF DE FAMILLE ☐ YES / OUI ☐ NO / NON	NAME OF HEAD OF HOUSEHOLD - NOM DU CHEF DE FAMILLE

NAME OF EMPLOYER - NOM DE L'EMPLOYEUR

ADDRESS OF EMPLOYER - ADRESSE DE L'EMPLOYEUR

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TELEPHONE - TÉLÉPHONE	EMPLOYEE OCCUPATION - PROFESSION DE L'EMPLOYÉ(E)

NAME OF CLOSEST FRIEND (OR FAMILY MEMBER) NOT LIVING WITH YOU / NOM DU (DE LA) PLUS PROCHE AMI(E) (OU MEMBRE DE LA FAMILLE) QUI NE DEMEURE PAS AVEC VOUS ►

ADDRESS - ADRESSE

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TELEPHONE - TÉLÉPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PURPOSE OF LOAN / OBJET DU PRÊT ►
☐ BASIC NEEDS - BESOINS ESSENTIELS
☐ BASIC HOUSEHOLD - EFFETS MOBILIERS ESSENTIELS
☐ LABOUR MARKET ACCESS - BESOINS LIÉS À L'EMPLOI

FINANCIAL CODE - CODE FINANCIER

FUND / FONDS	ACTIVITY / ACTIVITÉ	G/L ACCT / COMPTE GÉNÉRAL	FUND CENTRE / CENTRE FINANCIER

REMARKS - OBSERVATIONS

SPECIMEN
SPECIMEN

I UNDERSTAND, AND AGREE TO ABIDE BY, THE TERMS OF THE LOAN AS SET OUT ON THE REVERSE OF THIS FORM. I ALSO UNDERSTAND THAT INTEREST WILL BE ACCRUED ON THIS LOAN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 48 OF THE IMMIGRATION REGULATIONS, 1978, THE ESSENTIAL ELEMENTS OF WHICH APPEAR ON THE REVERSE OF THIS FORM AND THAT THE RATE OF INTEREST IN EFFECT ON THE DATE THAT MY LOAN IS APPROVED WILL APPEAR ON THE FIRST MONTHLY STATEMENT OF ACCOUNT MAILED TO ME BY THE DEPARTMENT OF CITIZENSHIP AND IMMIGRATION

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SIGNATURE OF APPLICANT / SIGNATURE DU (DE LA) REQUÉRANT(E) ►	DATE D-J M Y-A	SIGNATURE OF SPOUSE OR COMMON LAW SPOUSE / SIGNATURE DE L'ÉPOUX(SE) OU DU (DE LA) CONJOINT(E) DE FAIT ►	DATE D-J M Y-A

AUTHORIZED OFFICER / FONCTIONNAIRE AUTORISÉ	DATE D-J M Y-A	APPROVING SUPERVISOR / SUPERVISEUR AUTORISÉ	DATE D-J M Y-A
WITNESS / TÉMOIN ►		►	

DG APPROVAL - APPROBATION DU DG

LABOUR MARKET ACCESS OVER $1000 / PLUS DE 1000 $ AU TITRE DES BESOINS LIÉS À L'EMPLOI ►	DATE D-J M Y-A

IMM 5355 (04 1998) B

Canada

CLIENT 3

SAMPLE OF FORM IMM 5355 - IMMIGRANT LOANS (ASSISTANCE LOAN)

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

IMMIGRANT LOANS (ASSISTANCE LOAN)
PRÊT POUR IMMIGRANTS (PRÊT D'AIDE À L'ÉTABLISSEMENT)

PROTECTED WHEN COMPLETED - B
PROTÉGÉ UNE FOIS REMPLI

CIC	FUND CENTRE - CENTRE FINANCIER ►	CIC FILE NO - NUMÉRO DE RÉFÉRENCE DU CIC

T.L. WARRANT NO. PRÊT DE TRANSPORT / N° DU BON ►	LOAN AMOUNT MONTANT DU PRÊT ►	DATE LOAN ADVANCED DATE DU PRÊT ► D-J M Y-A

FAMILY NAME - NOM DE FAMILLE	GIVEN NAME(S) - PRÉNOM(S)
STREET NAME AND NO. - N° ET NOM DE LA RUE	APT. NO. - N° D'APP.

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	SOCIAL INSURANCE NO. - N° D'ASSURANCE SOCIALE

DATE OF BIRTH DATE DE NAISSANCE ► D-J M Y-A	SEX SEXE	MARITAL STATUS ETAT MATRIMONIAL	TELEPHONE TÉLÉPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PRESENT CITIZENSHIP CITOYENNETÉ ACTUELLE	DETAILS OF ADMISSION TO CANADA PRÉCISIONS SUR L'ADMISSION AU CANADA ► DATE D-J M Y-A	PLACE - POINT D'ENTRÉE	CLASS - CATÉGORIE

HEAD OF HOUSEHOLD CHEF DE FAMILLE ☐ YES OUI ☐ NO NON	NAME OF HEAD OF HOUSEHOLD NOM DU CHEF DE FAMILLE

NAME OF EMPLOYER - NOM DE L'EMPLOYEUR

ADDRESS OF EMPLOYER - ADRESSE DE L'EMPLOYEUR

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TÉLÉPHONE - TÉLÉPHONE	EMPLOYEE OCCUPATION - PROFESSION DE L'EMPLOYÉ(E)

NAME OF CLOSEST FRIEND (OR FAMILY MEMBER) NOT LIVING WITH YOU
NOM DU (DE LA) PLUS PROCHE AMI(E) (OU MEMBRE DE LA FAMILLE) QUI NE DEMEURE PAS AVEC VOUS ►

ADDRESS - ADRESSE

CITY - VILLE	PROVINCE	POSTAL CODE - CODE POSTAL	TELEPHONE ► HOME - À DOMICILE	BUSINESS - AU BUREAU

PURPOSE OF LOAN OBJET DU PRÊT ►	☐ BASIC NEEDS - BESOINS ESSENTIELS ☐ BASIC HOUSEHOLD - EFFETS MOBILIERS ESSENTIELS ☐ LABOUR MARKET ACCESS - BESOINS LIÉS À L'EMPLOI	FINANCIAL CODE - CODE FINANCIER CIC FUND FONDS | ACTIVITY ACTIVITÉ | G/L ACCT COMPTE GÉNÉRAL | FUND CENTRE CENTRE FINANCIER

REMARKS - OBSERVATIONS

SPECIMEN
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AUTHORIZED OFFICER FONCTIONNAIRE AUTORISÉ	DATE D-J M Y-A	APPROVING SUPERVISOR SUPERVISEUR AUTORISÉ	DATE D-J M Y-A
WITNESS TÉMOIN ►		►	

DG APPROVAL - APPROBATION DU DG

LABOUR MARKET ACCESS OVER $1000 PLUS DE 1000 $ AU TITRE DES BESOINS LIÉS À L'EMPLOI ►	DATE D-J M Y-A

IMM 5355 (04-1998) B

Canada

ISSUING OFFICE
BUREAU SOURCE 4

SAMPLE OF FORM IMM 5355 - IMMIGRANT LOANS (ASSISTANCE LOAN)

CONDITIONS OF LOANS AND UNDERTAKING

The information provided on this form is collected under the authority of the Immigration Act and Regulations to identify the applicant for the purpose of this agreement. This information will be stored in the relevant Personal Information Bank EIC PPU 305 (Transportation, Admissibility and Assistance Loans Program); it is protected and accessible under the Privacy Act and the Access to Information Act.

You understand that the law to be applied to this document is:

a) the Immigration Act and Immigration Regulations, 1978, and
b) the law of the province in which you now reside.

REGULATIONS FOR ASSISTANCE LOANS

REGULATION 45(2):
The Minister may make assistance loans to permanent residents, Convention refugees and persons lawfully in Canada who are seeking landing.

REGULATION 45(1)(b):
Where a loan is made pursuant to section 45, it shall, subject to section 47, be repaid in full by consecutive monthly installments commencing in the case of a person referred to in subsection 45(2), 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that person.

REGULATION 48:
The essential elements of section 48 of the Immigration Regulations are:

ALL LOANS MADE PURSUANT TO SECTION 45 OF THE ACT will bear interest at a rate equal to the rate established by the Minister of Finance for loans made to Crown Corporations and that is in effect on the first day of January in the year in which the loan is approved. Where a loan is made pursuant to section 45 to any person who has a previous loan under that section that has not been repaid the new loan shall bear interest at a rate equal to the rate of interest on the existing loan.

Interest on loans will be calculated daily and will be accrued:
A) In the case of a loan for a person, other than a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the Act or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the Act who is selected by a visa officer under section 6 of the Act beginning:

a) 30 days after the day on which the person for whose benefit the loan is made arrives in Canada, in the case of loan referred to in section 45(1) or 45(3);
b) 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant in the case of a loan referred to in section 45(2); or,
c) on the earlier of thirty days after the day on which the person for whose benefit the loan is made arrives in Canada or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant, in the case of a loan referred to in section 45(2.1).

B) In the case of a loan for a person who is a Convention refugee, a member of a designated class of persons pursuant to section 114(1)(d) of the Act or a member of a class of persons prescribed pursuant to paragraph 114(1)(e) of the Act who is selected by a visa officer under section 6 of the Act beginning:

a) the first day of the thirteenth month after that person's arrival in Canada where the loan amount is not more than $1,200;
b) on the first day of the twenty-fifth month after that person's arrival in Canada where the loan amount is more than $1,200 but not more than $2,400;
c) the first day of the thirty-seventh month following that person's arrival in Canada where the loan amount is more than $2,400.

LOAN REPAYMENT:
This loan must be repaid in full, and payments must be made in Canadian currency on a regular basis commencing the earlier of thirty days after the day on which the immigrant for whose benefit the loan is made arrives in Canada, or 30 days after the day on which the proceeds of the loan are paid to or for the benefit of that immigrant and will continue:

a) where the amount of the loan is not more than $1,200 during a period of 12 months;
b) where the amount of the loan is more than $1,200 but not more than $2,400, during a period of 24 months;
c) where the amount of the loan is more than $2,400 but not more than $3,600, during a period of 36 months;
d) where the amount of the loan is more than $3,600 but not more than $4,800, during a period of 48 months;
e) where the amount of the loan is more than $4,800, during a period of 60 months.

You are to notify, in writing, within 10 days of any change of address, the Chief Revenue Accounting, Jean Edmonds Tower North, 300 Slater Street, 4th floor, Ottawa ON K1A 1L1 or call toll-free 1-800-667-7301.

DEFAULT PAYMENTS:
Should there be a default in making payments, the next and subsequent regular interest calculations will be made on the unpaid balance of the loan, plus interest, shown in the account.

DEFERRAL OF PAYMENTS:
To discuss deferral arrangements you may call toll-free 1-800-667-7301.

PAYROLL DEDUCTION:
You may undertake to arrange repayment of this loan through a payroll deduction scheme with your employer.

CONDITIONS RELATIVES AU PRÊT ET L'ENGAGEMENT

Les renseignements fournis sur ce formulaire sont recueillis en vertu de la Loi sur l'immigration et de son Règlement d'application pour établir l'identité du requérant aux fins du présent engagement. Ces renseignements seront versés au Fichier de renseignements personnels EIC PPU 305 (Programmes des prêts de transport, d'admissibilité et d'aide à l'établissement); ils sont protégés et accessibles en vertu de la Loi sur la protection des renseignements personnels et de la Loi sur l'accès à l'information.

Veuillez noter que le contenu de ce document est régi par :

a) la Loi sur l'immigration et le Règlement sur l'immigration de 1978 et par
b) la législation de la province où vous résidez.

RÈGLEMENTS D'AIDE À L'ÉTABLISSEMENT

RÈGLEMENT 45(2) :
Le ministre peut consentir des prêts d'aide à l'établissement aux résidents permanents, aux réfugiés au sens de la Convention et aux personnes qui se trouvent légalement au Canada et qui sollicitent le droit d'établissement.

RÈGLEMENT 46(1)b) :
Un prêt consenti à une personne selon l'article 45 doit, sous réserve de l'article 47, être intégralement remboursé au moyen de mensualités commençant dans le cas d'un prêt visé au paragraphe 45(2), le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur.

RÈGLEMENT 48 :
Éléments importants de l'article 48 du Règlement sur l'immigration :

TOUS LES PRÊTS CONSENTIS SELON L'ARTICLE 45 DE LA LOI portant intérêt au taux que le ministre des Finances a établi pour des prêts qu'il accorde aux sociétés de la Couronne et qui est en vigueur le premier janvier de l'année au cours de laquelle le prêt a été accordé. Lorsqu'un prêt est consenti selon l'article 45 à toute personne qui, en vertu de cet article, a déjà obtenu un prêt qui n'a pas été remboursé, ce nouveau prêt doit porter intérêt à un taux égal au taux d'intérêt exigible sur le prêt en cours.

L'intérêt sur les prêts sera calculé quotidiennement et commencera à courir :
A) dans le cas d'un prêt consenti à une personne autre qu'un réfugié au sens de la Convention, un membre d'une catégorie précisée en vertu de l'alinéa 114(1)d) de la Loi ou un membre d'une catégorie précisée en vertu de l'alinéa 114(1)e) de la Loi qui est sélectionné par un agent des visas aux termes de l'article 6 de la Loi,

a) le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada, dans le cas d'un prêt visé aux paragraphes 45(1) ou 45(3);

b) le jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur, dans le cas d'un prêt visé au paragraphe 45(2); ou,

c) à la première des deux dates suivantes : le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada ou le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur, dans le cas d'un prêt visé au paragraphe 45(2.1).

B) Dans le cas d'un prêt consenti à une personne qui est un réfugié au sens de la Convention, un membre d'un catégorie précisée en vertu de l'alinéa 114(1)d) de la Loi ou un membre d'une catégorie précisée en vertu de l'alinéa 114(1)e) de la Loi qui est sélectionné par un agent des visas aux termes de l'article 6 de la Loi.

a) le premier jour du treizième mois suivant l'arrivée de la personne au Canada si le prêt est d'au plus 1 200$;
b) le premier jour du vingt-cinquième mois suivant l'arrivée de la personne au Canada lorsque le prêt est de plus de 1 200$ mais d'au plus 2 400$;
c) le premier jour du trente-septième mois suivant l'arrivée de la personne au Canada lorsque le prêt est de plus de 2 400$.

REMBOURSEMENT DU PRÊT :
Ce prêt doit être intégralement remboursé en devises canadiennes au moyen de mensualités, la première étant exigible à la première des deux dates suivantes : le 30e jour suivant le jour où la personne qui en bénéficie est arrivée au Canada ou le 30e jour suivant le jour où le montant du prêt a été versé à l'intéressé ou en sa faveur. Ce prêt est remboursable au moyen :

a) de 12 mensualités, s'il est d'au plus 1 200$;

b) de 24 mensualités, s'il est de plus de 1 200$, mais d'au plus 2 400$;

c) de 36 mensualités, s'il est de plus de 2 400$, mais d'au plus 3 600$;

d) de 48 mensualités, s'il est de plus de 3 600$, mais d'au plus 4 800$;

e) de 60 mensualités, s'il est de plus de 4 800$.

Vous devez aviser par écrit de tout changement d'adresse dans un délai de dix jours le Chef, Comptabilité du revenu, Tour Jean Edmonds Nord, 300 rue Slater, 4e étage, Ottawa ON K1A 1L1 ou téléphoner sans frais au 1-800-667-7301.

DÉFAUT DE PAIEMENT :
En cas de défaut de paiement, l'intérêt subséquent est calculé sur le total du solde à rembourser, ce qui comprend les intérêts accumulés.

PAIEMENTS DIFFÉRÉS :
Pour discuter de paiements différés, veuillez téléphoner sans frais au 1-800-667-7301.

RETENUES SUR LE SALAIRE :
Vous pouvez vous engagez à rembourser ce prêt en autorisant votre employeur à retenir à la source les versements voulus.

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SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PAGE 1 OF 6
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IMMIGRANT LOAN APPLICATION

Client ID number

1 LOAN APPLICANT

Surname (Family name) | Given name(s)

Sex ☐ Male ☐ Female | Date of birth ▶ D M Y | Country of birth | Status in Canada | Social insurance no.

Home telephone ▶ Area code ( ) No. | Work telephone ▶ Area code ( ) No. | Fax number ▶ Area code ( ) No

2 ADDRESS | **MAILING ADDRESS**

Street no. | Apt no. | Street no. | Apt. no.

City | Province/Country | Postal code | City | Province/Country | Postal code

3 SIZE OF FAMILY

Yourself		1
Your spouse	+	
Children that depend on you or your spouse (regardless of age or degree of dependency)	+	
Previously sponsored relatives who are still dependent on you or on your spouse for support (previous undertaking still valid)	+	
Any other relatives who are dependent on you or your spouse for support	+	
Relatives you are sponsoring on the Undertaking	+	
Other dependent children of the principal applicant who are not applying for permanent residence at this time	+	
TOTAL SIZE OF FAMILY UNIT (Total of all boxes) ▶		

4 RIGHT OF LANDING FEE LOAN REQUEST FOR:

INCLUDE ALL PERSONS WHO WILL BE INCLUDED IN YOUR APPLICATION FOR LANDING OR UNDERTAKING TO SPONSOR.
(Add additional sheet of paper if required.)

INSERT $975 IN COLUMN A OR B

SURNAME (FAMILY NAME)	GIVEN NAME(S)	DATE OF BIRTH D M Y	RELATIONSHIP TO LOAN APPLICANT	RESIDES (A) In Canada	RESIDES (B) Abroad

IMM 5349 (12-1998) E

(DISPONIBLE EN FRANÇAIS - IMM 5349 F)

Canada

SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

5 CURRENT REVENUES AND OBLIGATIONS

MONTHLY FAMILY INCOME		MONTHLY FAMILY DEBT PAYMENTS		MONTHLY FAMILY LIVING EXPENSES	
Earnings from employment	$	Loans (Details below at **B)**	$	Rent	$
Rental income	$	Credit card	$	Electricity / Gas / Water	$
Pension income	$	Credit card	$	Telephone	$
Child tax benefits	$	Other debts (Details below at **C)**	$	Groceries	$
Other income (Details below at **A)**	$	**TOTAL**	$	Daycare	$
Other assets (Details below at **A)**	$			Insurance (Auto)	$
TOTAL	$			Bus passes	$
				Other (Details below at **D)**	$
				TOTAL	$

A Other assets/income

B Loans	AMOUNT	PAYMENTS START DATE D M Y	PAYMENTS END DATE D M Y	MONTHLY PAYMENTS
	$			$
	$			$

C Other debts

D Other living expenses

6 FUTURE REVENUES AND OBLIGATIONS

Anticipated revenue or funds: $ _____ When anticipated YEAR _____ Source _____

Other (Please specify)

Anticipated future obligations: $ _____

7 SOCIAL ASSISTANCE

Are you or is any other member of your immediate family currently on social assistance? ☐ YES ☐ NO

	(a) SELF	(b) SPOUSE	(c) OTHER FAMILY MEMBER
If "YES", indicate with an "X" as applicable	☐	☐	☐
Date commenced social assistance	D M Y	D M Y	D M Y
Dollar ($) amount of monthly assistance:	$	$	$

IMM 5349 (12-1998) E

SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

8 EMPLOYMENT INSURANCE BENEFITS

Are you or is any other immediate family member in receipt of employment insurance? ☐ YES ☐ NO

	(a) SELF	(b) SPOUSE	(c) OTHER FAMILY MEMBER
If "YES", indicate with an "X" as applicable	☐	☐	☐
Date commenced employment insurance	D M Y	D M Y	D M Y
Dollar ($) amount received each month:	$	$	$

9 PLEASE PROVIDE THE FOLLOWING INFORMATION IF APPLICABLE

EMPLOYMENT HISTORY - LOAN APPLICANT (For last 24 months. Add additional sheet of paper if required)

Current employer			Salary	From ▶ Day Month Year
Street and no.			Occupation	To ▶ Day Month Year
City	Province/Country	Postal Code	Telephone ▶ Area code ( )	No
Previous employer			Salary	From ▶ Day Month Year
Street and no.			Occupation	To ▶ Day Month Year
City	Province/Country	Postal Code	Telephone ▶ Area code ( )	No.

EMPLOYMENT HISTORY - SPOUSE/Other immediate family member (For last 24 months. Add additional sheet of paper if required)

Name of family member				
Current employer			Salary	From ▶ Day Month Year
Street and no.			Occupation	To ▶ Day Month Year
City	Province/Country	Postal Code	Telephone ▶ Area code ( )	No.
Previous employer			Salary	From ▶ Day Month Year
Street and no.			Occupation	To ▶ Day Month Year
City	Province/Country	Postal Code	Telephone ▶ Area code ( )	No.

IMM 5349 (12-1998) E

SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

PAGE 4 OF 6

10 PLEASE PROVIDE THE FOLLOWING INFORMATION IF APPLICABLE

VOLUNTARY OR OTHER UNPAID WORK - LOAN APPLICANT (Add additional sheet of paper if required)

Name of organization

Street and no.

City | Province/Country | Postal Code

Type of work

Hours per week | Duration

VOLUNTARY OR OTHER UNPAID WORK - SPOUSE/Other immediate family member (Add additional sheet of paper if required)

Name of family member

Name of organization

Street and no.

City | Province/Country | Postal Code

Type of work

Hours per week | Duration

11 PLEASE PROVIDE THE FOLLOWING INFORMATION IF APPLICABLE

IF CURRENTLY ENROLLED IN A SCHOOL, TRAINING OR LANGUAGE PROGRAM - LOAN APPLICANT (Add additional sheet of paper if required)

Name of school or facility | Enrolled ▶ ☐ Full-time ☐ Part-time

Street and no.

City | Province/Country | Postal Code

Course of studies

Date commenced ▶ Day Month Year | Duration of course or program ▶ Days Months Years | Completion date ▶ Day Month Year

IF CURRENTLY ENROLLED IN A SCHOOL, TRAINING OR LANGUAGE PROGRAM
SPOUSE/Other immediate family member (Add additional sheet of paper if required)

Name of family member

Name of school or facility | Enrolled ▶ ☐ Full-time ☐ Part-time

Street and no.

City | Province/Country | Postal Code

Course of studies

Date commenced ▶ Day Month Year | Duration of course or program ▶ Days Months Years | Completion date ▶ Day Month Year

MM 5349 (12-1998) E

SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

12 **PLEASE ANSWER THE FOLLOWING QUESTIONS AS THOROUGHLY AS POSSIBLE.**
IF ANY OF THE QUESTIONS ARE NOT APPLICABLE TO YOUR SITUATION PLEASE INDICATE WITH A "N/A" OR A SIMPLE STATEMENT.

A Do you have any savings, bank accounts, business shares or real estate? Please indicate the location and approximate value in Canadian dollars.

B Do you have close contact with your or your spouses' parents? Please indicate if they are living in or outside of Canada. Have they been approached for financial assistance, and if so what was their response.

C Have you approached a bank or other financial institution for the loan? (Answer only if you have been in Canada for 3 years or more)

D Do you currently have the processing fee(s) associated with your application for landing/permanent residence? If so, how did you acquire these funds? If not, how do you intend to obtain these funds?

E How do you plan to cover the transportation costs of bringing your family to Canada?

F If you are not currently employed, outline the efforts you have made to obtain employment.

G In the space provided please add any information which you feel would be helpful in processing your loan application.

IMM 5349 (12-1998) E

SAMPLE OF FORM IMM 5349 - IMMIGRANT LOAN APPLICATION

13 DECLARATION

I certify that the above information is true and give consent to Citizenship and Immigration Canada to verify any of the information provided on this application.

_____ Day Month Year
Signature of loan applicant Date

_____ Day Month Year
Signature of spouse Date

FOR OFFICIAL USE ONLY

ROLF LOAN CALCULATION

A) Number of persons residing in Canada for whom loan requested (from 4(A)) _____ X $ 975 = $ _____ in Canada

B) Number of persons for whom loan requested residing abroad (from 4(B)) _____ X $ 975 = $ _____ abroad

TOTAL LOAN AMOUNT REQUESTED (A + B) $

☐ Approved
☐ Refused

Reason

Signature of officer ▶ _____ Day Month Year
Signature Date

IMM 5349 (12-1998) E

SAMPLE OF FORM IMM 5425 - CONTROL LOG

Citizenship and Immigration Canada / Citoyenneté et Immigration Canada

PAGE 1 OF/DE 2

CONTROL LOG
IMM 0500 (Immigrant Loans)

FICHE DE CONTRÔLE
IMM 0500 (Prêts pour immigrants)

Office - Bureau	Fund centre - Centre financier	Name of custodian - Nom du dépositaire

- To be used for local office control of IMM 0500 supplies
- Ne doit servir qu'au contrôle des stocks d'IMM 0500 dans les bureaux locaux
- When entering the IMM 0500 serial numbers, include the letter suffix.
- Print all details in block letters
- Lorsque vous inscrivez les numéros de série de l'IMM 0500, veuillez inclure le suffixe alphabétique.
- **Veuillez inscrire tous les renseignements en majuscules**

IMM 0500 serial number / Numéro de série de l'IMM 0500	Name and initials of officer withdrawing form / Nom et initiales de l'agent retirant le formulaire	Date withdrawn / Retiré le	Name of client, date issued and local file number / Nom du client, date de délivrance et numéro de référence	Date reported missing or date destroyed due to spoilage - include or attach details / Manque depuis le - ou détruit le - parce qu'il était abimé - donner des précisions y compris le motif
1)		D - J M Y - A	D - J M Y - A	D - J M Y - A
2)		D - J M Y - A	D - J M Y - A	D - J M Y - A
3)		D - J M Y - A	D - J M Y - A	D - J M Y - A
4)		D - J M Y - A	D - J M Y - A	D - J M Y - A
5)		D - J M Y - A	D - J M Y - A	D - J M Y - A
6)		D - J M Y - A	D - J M Y - A	D - J M Y - A
7)		D - J M Y - A	D - J M Y - A	D - J M Y - A
8)		D - J M Y - A	D - J M Y - A	D - J M Y - A
9)		D - J M Y - A	D - J M Y - A	D - J M Y - A
10)		D - J M Y - A	D - J M Y - A	D - J M Y - A
11)		D - J M Y - A	D - J M Y - A	D - J M Y - A
12)		D - J M Y - A	D - J M Y - A	D - J M Y - A

IMM 5425 (03-1999) B

Canada

SAMPLE OF FORM IMM 5425 - CONTROL LOG

IMM 0500 serial number Numéro de série de l'IMM 0500	Name and initials of officer withdrawing form Nom et initiales de l'agent retirant le formulaire	Date withdrawn Retiré le	Name of client, date issued and local file number Nom du client, date de délivrance et numéro de référence	Date reported missing or date destroyed due to spoilage - include or attach details Manque depuis le - ou détruit le - parce qu'il était abimé - donner des précisions y compris le motif
13)		D-J M Y-A	D-J M Y-A	D-J M Y-A
14)		D-J M Y-A	D-J M Y-A	D-J M Y-A
15)		D-J M Y-A	D-J M Y-A	D-J M Y-A
16)		D-J M Y-A	D-J M Y-A	D-J M Y-A
17)		D-J M Y-A	D-J M Y-A	D-J M Y-A
18)		D-J M Y-A	D-J M Y-A	D-J M Y-A
19)		D-J M Y-A	D-J M Y-A	D-J M Y-A
20)		D-J M Y-A	D-J M Y-A	D-J M Y-A
21)		D-J M Y-A	D-J M Y-A	D-J M Y-A
22)		D-J M Y-A	D-J M Y-A	D-J M Y-A
23)		D-J M Y-A	D-J M Y-A	D-J M Y-A
24)		D-J M Y-A	D-J M Y-A	D-J M Y-A
25)		D-J M Y-A	D-J M Y-A	D-J M Y-A
26)		D-J M Y-A	D-J M Y-A	D-J M Y-A
27)		D-J M Y-A	D-J M Y-A	D-J M Y-A
28)		D-J M Y-A	D-J M Y-A	D-J M Y-A

IMM 5425 (03-1999) B

APPENDIX C
LOAN ASSESSMENT SHEET

Officer: _____ Date: _____

Family Name:_____First Names: _____

Date of Birth:_____ Client ID #:_____

Number of Family Members: _____

Low-Income Cutoff Requirements: *(effective 1 March 1998 until 28 February 1999)*

Size of area of residence	**A**	**B**	**C**	**D**	**E**
Size of Family Unit					
1 person	$17,409	$14,931	$14,827	$13,796	$12,030
2 persons	$21,760	$18,664	$18,534	$17,245	$15,038
3 persons	$27,063	$23,213	$23,050	$21,448	$18,703
4 persons	$32,759	$28,098	$27,903	$25,964	$22,639
5 persons	$36,618	$31,409	$31,191	$29,023	$25,307
6 persons	$40,479	$34,720	$34,478	$32,081	$27,975
7 persons	$44,339	$38,032	$37,766	$35,140	$30,643
Additional person	**$3,860**	**$3,312**	**$3,288**	**$3,059**	**2,668**

Note:

A= 500,000 and over

B= 100,000 to 499,999

C= 30,000 to 99,999

D = Less than 30,000 (includes cities with a population between 15,000 and 30,000 and small urban areas under 15,000)

E = Rural Areas

	Chart A	**Chart B**
	(Minimum wage for unskilled/new workers)	(Above minimum wage for skilled workers or persons with potential)
1 worker	$13,255	$20,511
2 workers	$26,510	$41,022
3 workers	$39,765	$61,533
4 workers	$53,020	$82,044

Chart C

(Actual/Potential Family Income)

_____ Workers Actual Income

_____Workers Chart A

_____ Workers Chart B

Total Income _____

Chart D

(Family Obligations and Monthly Expenses)

_____ Monthly Expenses (from application)

_____Monthly Obligations (from application)

Total Liabilities _____

Variance between income (actual or potential) and obligations (C minus D) _____

Note: *When assessing potential or actual income against low-income cut-off, a $3,000 to $4,000 shortfall may be acceptable between the income potential and income needs to allow for potential to earn more than minimum wage or to find a part-time second job. Any shortfall greater than this amount should be viewed with caution.*

Other Considerations:

Previous Loans (Review IPAR):

Loan Balance _____ Monthly Payment _____

Current or Delinquent _____

Age versus Repayment Schedule:

More than five years as potential worker _____

Less than five years as potential worker _____

Medical condition:

Good _____

Work limited by _____

Work not permitted because of _____

Future Loan Potential:

Transportation ($ amount using $900 per person average) _____

Loan Assessment:

Approve _____ **Refuse** _____

*(**Note:** Show reasons on Immigrant Loans Application)*

WRITE SUMMARY OF CONVERSATION WITH CLIENT (USE BACK OF SHEET, IF REQUIRED)

APPENDIX D
COMMON QUESTIONS TO ASK CLIENT

1. Do you have competency in either official language?
2 What is your family size?
3. Do you have any relatives in Canada and/or abroad?
4. Where are you living now?
5. What are your transportation costs?
6. What are your total cost recovery fee costs?
7. Do you have a bank account and what are your assets?
8. Do you have any outstanding debts or loans?
9. Have you been previously rejected for a loan?
10. What is your loan payback plan?
11. Are there any medical or health factors to consider?
12. What is your educational background?
13. What is your work history and career plan?
14. What is your spouse's work history and career plan?
15. What is your intended occupation?
16. Do you have other trades or skills?
17. What are your future plans?
18. What have you been doing?
19. Have you taken any initiative to find work (whether paid or volunteer)?

APPENDIX E
IMMIGRANT LOANS

Annual Interest Rates 1989-1999	
Calendar Year	**Annual Interest Rate**
1989	10.72
1990	10.84
1991	10.62
1992	7.51
1993	7.41
1994	5.32
1995	9.06
1996	6.41
1997	4.85
1998	5.37
1999	4.54

APPENDIX F

INSTRUCTIONS FOR IOM, TRANSPORTATION COMPANY OR TRAVEL AGENCY

File:_____

Date:_____

Representative

Transportation Company or Travel Agent

RE: *(Name of head of family) accompanied by*

(Name of spouse)

(Name[s] of dependant children)

This is to advise you that the application for admission to Canada for permanent residence of the above-named persons has been provisionally approved, and the Canadian Government has authorized the advance of a transportation loan by way of the attached serialized transportation warrant. The transportation warrant is approved on the basis of your estimate of CDN $ _____.

When booking passage, please note the following:

A. The Transportation Warrant (IMM 0500**)**

The transportation warrant is to be used to purchase or pay for the ticket. Should the passage be booked by a travel agent, the agent should use the transportation warrant to purchase the ticket from the transportation company. Once the passage is booked, the travel agent should send copy 1 of the transportation warrant with a sales report to the principle carrier.

The transportation company (principle carrier) will then bill the Canadian Government directly by submitting copy 1 (original) of the transportation warrant, along with a duplicate invoice, to the Chief, Revenue Accounting - Finance, Citizenship and Immigration Canada, 300 Slater Street, Jean Edmonds - North Tower, 4th Floor, Ottawa, Ontario, K1A 1L1, ***no later than 30 days after the arrival of the above- named persons in Canada***. Copy 4 of the transportation warrant is to be returned to this office ***immediately*** once the passage is booked. Copy 3 (file copy) of the transportation warrant has been retained at this office. Copy 2 is to be provided to the person who has been named the loan recipient in section I of the transportation warrant (i.e. the head of family or sponsor undertaking the payment of the loan). ***Please ensure that sections II and III of the transportation warrant are fully completed and signed before the warrant is separated and dispatched.*** On receipt of copy 1 of the transportation warrant and the duplicate invoice in Ottawa, payment is made as soon as the arrival of the above-named persons has been confirmed.

B. Amount

The immigrant loan has been authorized to pay for the cost of travel by air at normal tourist-class rates, and inland travel by air, rail or bus by the most convenient route and at the lowest rate available, from the point of embarkation to the final destination in Canada. The loan may include charges for port taxes, airport taxes and stamp taxes. Approval of the transportation warrant will be based on the fare quoted by the travel agent or transportation company, as indicated on the transportation warrant and marked in the first paragraph above. ***In the event that transportation costs exceed the amount quoted by more than 3%, the travel agent or transportation company must notify this office immediately and give reason(s) for the price increase before a loan in the higher amount can be approved.***

C. Costs not Covered by the Transportation Warrant

Charges from place of residence to point of embarkation may not be included. Excess baggage charges, charges for baggage sent by sea on behalf of persons who use air transport for their passage, or charges for the transport of pets or animals may not be included.

D. Direct Travel

Persons admitted to Canada for permanent residence whose transportation is provided in whole or in part through a Canadian Government transportation loan, ***must travel direct to Canada*** by a Canadian

carrier or by a carrier of the country from which the journey to Canada originates and which is licensed to operate in Canada. Persons whose journey originates in a country not served by a Canadian carrier and whose national carriers do not operate in Canada, must interline with a Canadian carrier at the nearest connecting point provided that there is no resulting increase in fare. Where there is an increase in fare, the person may travel direct by any carrier or indirect by an authorized carrier. The most economical fare will be given priority.

"Direct" means travel to Canada on a carrier which embarks Canadian-bound immigrants outside the continental United States and discharges them at a Canadian port of entry (e.g. travel across the Atlantic direct to a Canadian port of entry).

Yours truly,

_____

(Name of CIC Officer)

(Area code and telephone number)

APPENDIX G
LETTER OF UNDERSTANDING

The Manager, Canada Immigration Centre _____ (City), _____ (Province), on behalf of the Minister of Citizenship and Immigration Canada, agrees to approve an immigrant loan which is not to exceed the maximum total amount of CDN $_____ in the name(s) of the following loan recipient(s):

A. _____
Family and Given Name of Principal Loan Recipient

B. _____
Full Name of Family Dependant(s)

C. _____
Full Name of Family Dependant(s)

D. _____
Full Name of Family Dependant(s)

E. _____
Full Name of Family Dependant(s)

The loan agreement is being established for the above-named loan recipient(s) only, with the proviso that the following sponsoring individual or group, _____(Full name of sponsoring individual(s) or group), agree(s) to undertake the payment of the loan for the loan recipient(s) according to the following terms and conditions:

1) That the _____ (name of sponsoring organization) agrees to make _____ (number of) payments of $ CDN _____(amount) during a period of _____(no. of) months, in the name of the loan recipient.

2) The first payment on the loan account is due one month after the the benificiary for whom the loan is approved arrives in Canada.

3) The Refugees Programs Branch of Citizenship and Immigration Canada will coordinate with Revenue Accounting, Finance at National Headquarters for the temporary billing arrangements for the account of _____ (full name of principal applicant) with the (sponsoring organization).

4) Billing statements for the duration of this agreement will be addressed to the attention of: _____ (insert name of representative of sponsoring organization and this person's address in full).

5) All cheques submitted by the _____ (name of sponsoring organization) are to have the statement "Payment on the loan of _____" (name of the principal applicant) on the reverse side of the cheque, as well as the account number _____ (serial number of the IMM 0500) that has been established in his/her name.

6) The loan will be subject to interest charges at the rate of _____ (annual rate of interest) per annum at the end of the "grace period" from interest. The "grace period" from interest will be for _____ [see regulation 48(1.1) for the number of months] following the day on which _____ (full name of person who is beneficiary of the loan) comes into Canada. Interest will be payable only on the unpaid portion of the loan at the end of the "grace period" from interest.

7) The "grace period" from interest does not apply on any missed payment. Also, where a cheque, submitted as payment on the account, is not honoured by the financial institution against which it is drawn, a service fee will be applied to the loan account to cover the costs of processing a dishonoured payment and interest will be calculated on the amount of this payment.

The _____ (name of the sponsoring organization) agrees to carry out the terms and conditions outlined in this Letter of Understanding, on behalf of _____ (full

name of principal applicant) and will inform Collection Services, Finance at National Headquarters of any change of address of the principal loan recipient, throughout the duration of this agreement. Collection Services may be reached at the following toll-free number 1-800-667-7301.

Nothwithstanding the above, nothing in this Letter of agreement prohibits the principal loan recipient and her/his family dependants, to make loan payments towards his/her loan account nor does the agreement in any way diminish his/her responsibility as the principal loan holder.

The loan account of the loan recipient(s) is subject to a "grace period" from interest for a period of _____ (insert number) months *(Note: The grace period only applies to Convention refugees or members of the humanitarian designated classes who have been selected abroad).* The determined grace-period from interest will begin on the date the loan amount is advanced. For the purposes of the Immigrant Loans Program, this will be the date on which the above-named loan recipient(s) arrive(s) in Canada. Interest will only be payable on the loan balance which is outstanding at the end of the grace-period from interest.

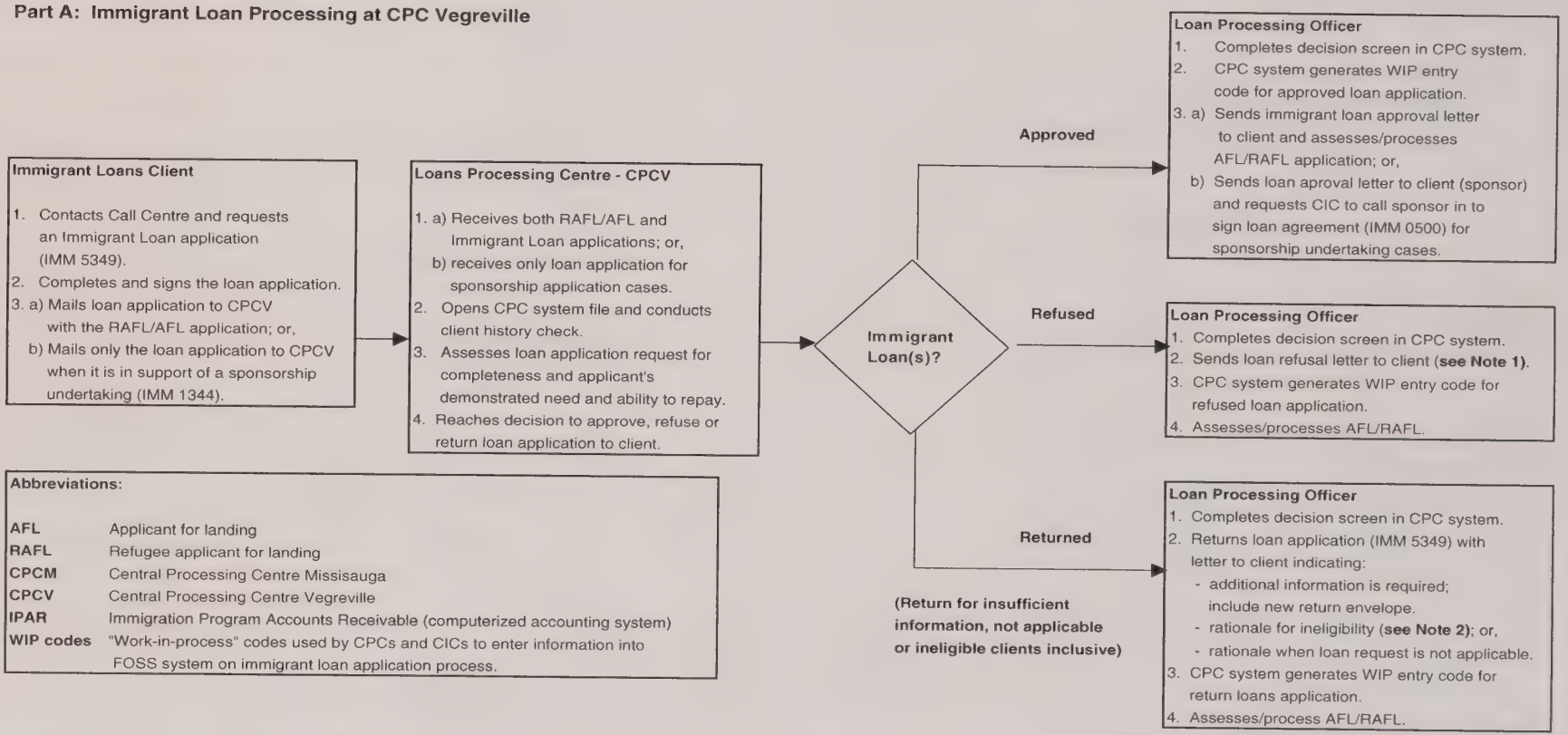
The third party, who agree(s) to carry out the terms and conditions outlined in this Letter of Understanding, on behalf of the above-named loan recipient(s), will inform Collection Services, Finance at National Headquarters, of any change of address of the principal loan recipient, throughout the duration of the loan agreement. Collection Services may be reached at the following toll-free number 1-800-667-7301.

Notwithstanding the above, nothing in this agreement prohibits the principal loan recipient and/or his or her family dependants, to make loan payments towards his or her loan account nor does the agreement in any way diminish his or her responsibility as the principal loan holder.

For The Private Sponsor Group	**For The Minister of Citizenship and Immigration**
_____	_____
(Name/Title) *(Legal signing authority is required)*	*Manager CIC* *(City and Province)*
_____	_____
Date	*Date*
_____	_____
(Area code and telephone number)	*(Area code and telephone number)*

APPENDIX H
IMMIGRANT LOANS PROGRAM - FLOW CHART

Part A: Immigrant Loan Processing at CPC Vegreville



Abbreviations:

AFL	Applicant for landing
RAFL	Refugee applicant for landing
CPCM	Central Processing Centre Missisauga
CPCV	Central Processing Centre Vegreville
IPAR	Immigration Program Accounts Receivable (computerized accounting system)
WIP codes	"Work-in-process" codes used by CPCs and CICs to enter information into FOSS system on immigrant loan application process.

Note 1:

a) Loan refusal letter must inform client that AFL will continue to be processed; however, the ROLF fee must be paid in cash or by acceptable cash equivalent at a CIC when client is called for landing; or,

b) Loan refusal letter must inform client that while sponsorship undertaking may be sent to CPCM, the ROLF fee must be paid when family members abroad are visa ready.

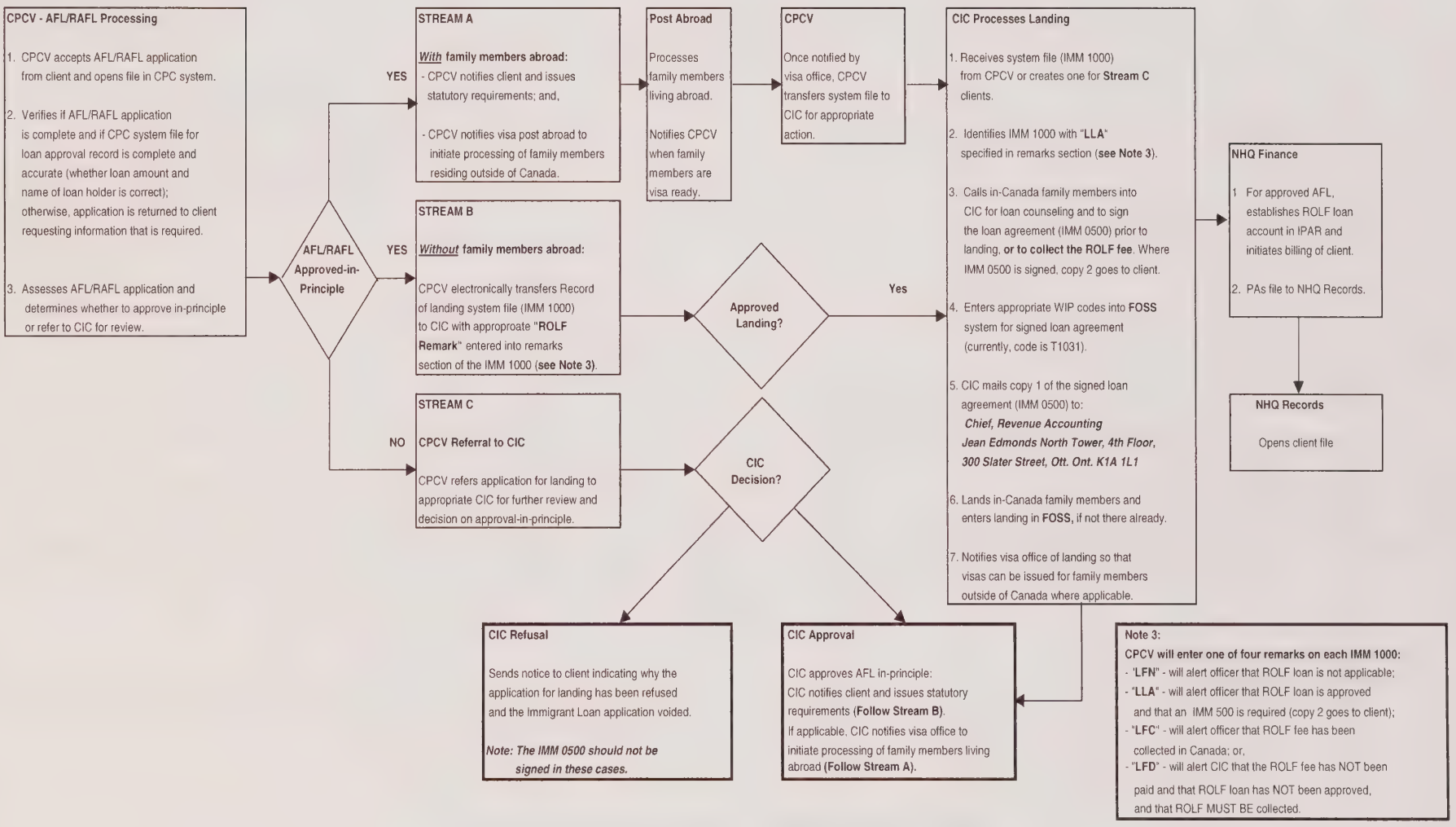
Note 2:

a) Letter with returned loan application must inform client that AFL/RAFL application will continue to be assessed; however, ROLF fee must be paid in cash or by acceptable cash equivalent at CIC when IMM 1000 is issued unless a subsequent loan application is approved.

b) For sponsorship, ROLF to be paid at CPCM when family members abroad are visa ready unless subsequent loan application is approved.

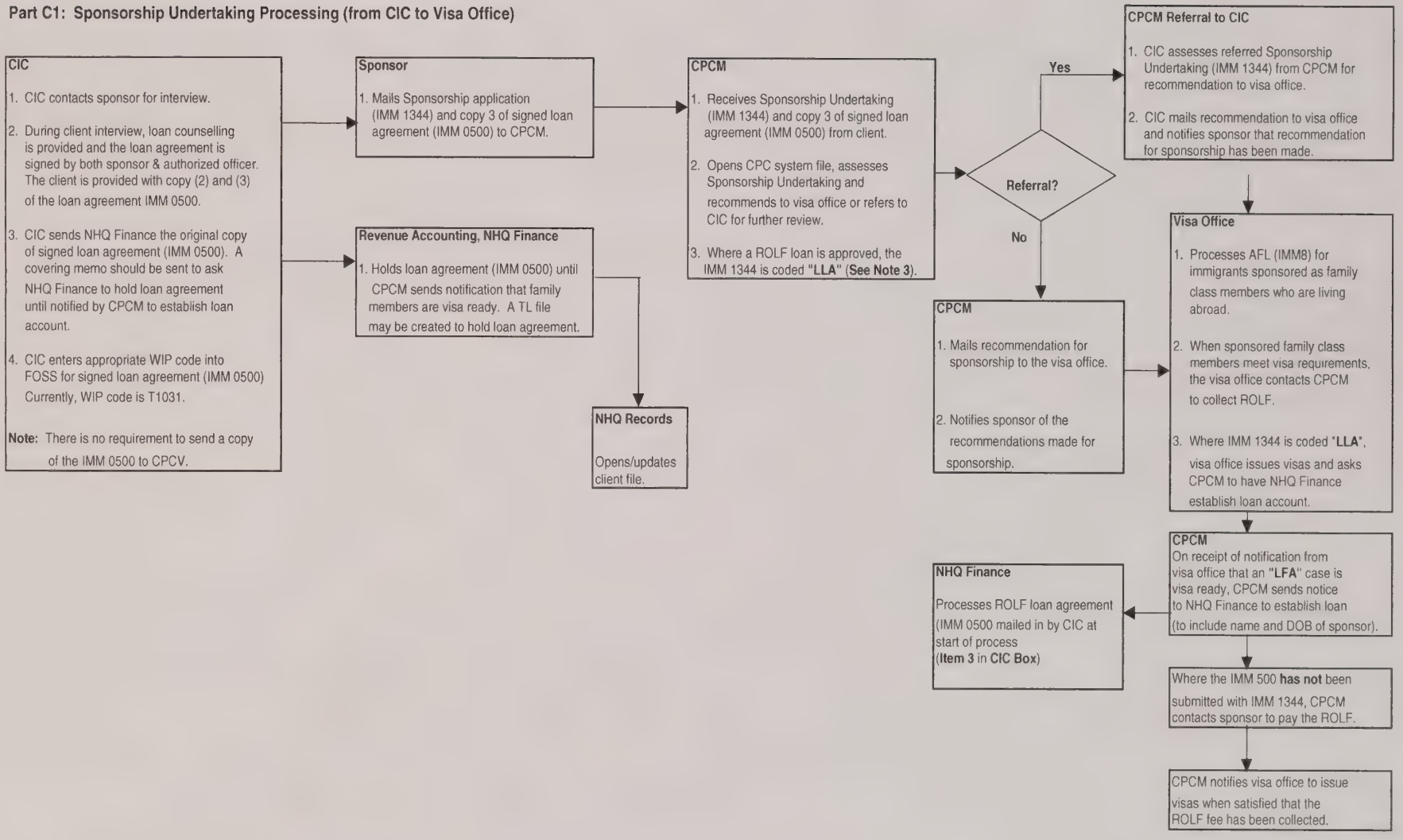
MMIGRANT LOANS PROGRAM - FLOW CHART

Part B: Application for Landing Process



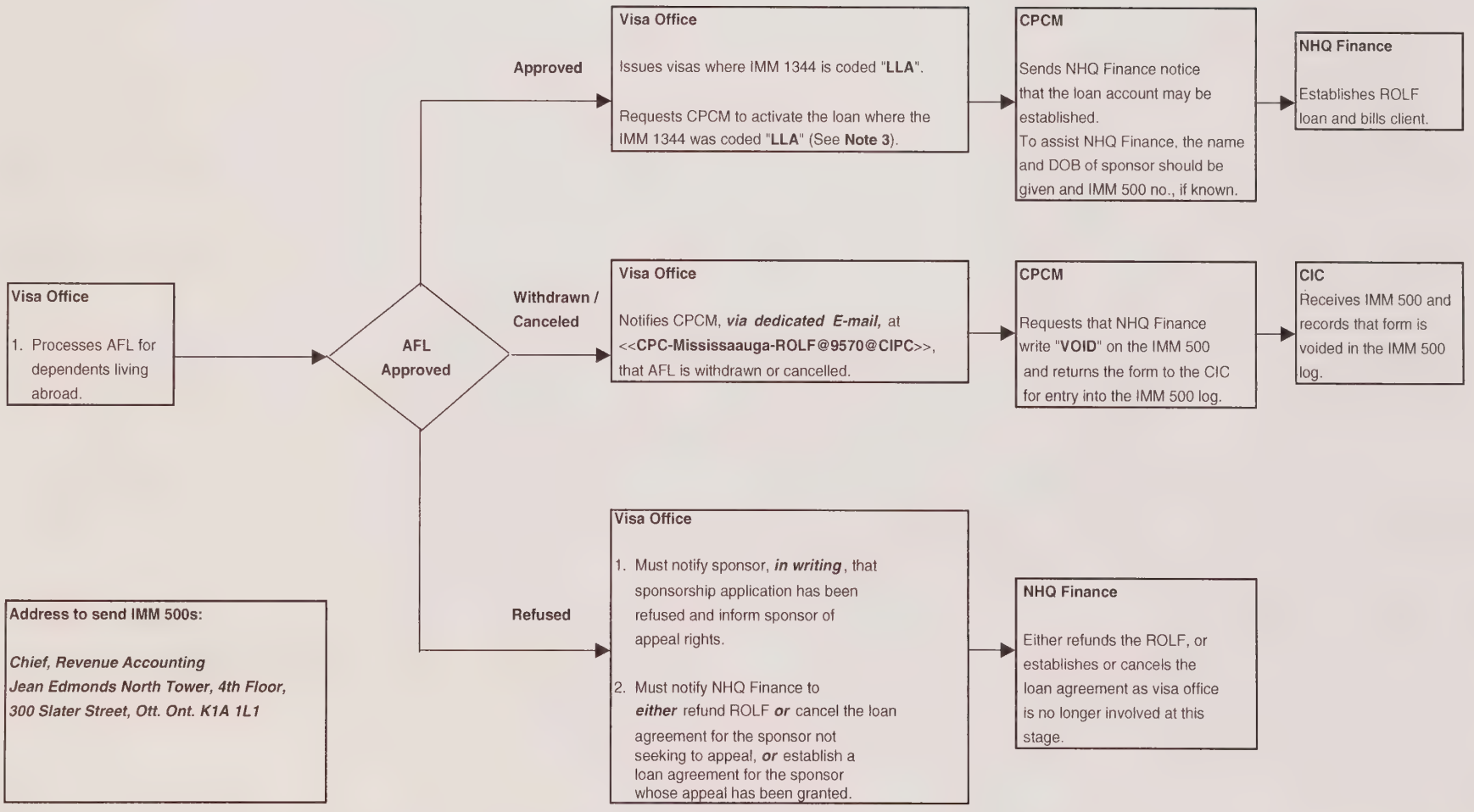
MMIGRANT LOANS PROGRAM - FLOW CHART

Part C1: Sponsorship Undertaking Processing (from CIC to Visa Office)



MMIGRANT LOANS PROGRAM - FLOW CHART

Part C2: Sponsorship Undertaking Processing (on receipt by Visa Office)



IMMIGRATION

Canada

Chapter OP 17
Evaluating Inadmissibility



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Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

Evaluating Inadmissibility

1. INTRODUCTION

1.1 What is this chapter about?

This chapter explains how you decide if applicants are described in A19.

It does not cover three parts of A19. Only immigration officers at ports of entry and inland can use A19(1)(h). A19(2)(c) only applies at ports of entry. Visa officers use A19(2)(d), but its scope is too broad for this chapter. Consult other chapters for advice about how to use A19(2)(d) (e.g. membership in the family class in OP 2).

1.2 Legislative intent

The protection of the health, safety and good order of Canadian society is an important objective of the *Immigration Act*. Through the use of A19, you help achieve this aim.

Most persons described in A19 cannot be admitted because of criminal, medical or security problems. A19 makes distinctions between: (1) serious and less serious criminal offences; (2) protecting public health and protecting public health care systems; as well as (3) different threats to the security and good order of Canadian society.

2. CRIMINAL INADMISSIBILITY

2.1 A19 – Paragraphs relating to criminality

A19 bars admission to persons who fall into any of eleven classes of criminality. Eight of these classes can be divided into three groups.

2.1.1 Criminal convictions in Canada [A19(1)(c), A19(2)(a) and A19(2)(b)(i)]

The first group includes A19(1)(c), A19(2)(a) and A19(2)(b)(i). These sections affect people convicted in Canada of offences under any *Act of Parliament* punishable by: (1) a maximum of ten years or more imprisonment; (2) less than ten years imprisonment; or (3) summary convictions.

Applicants fall into A19(2)(b)(i), if they have convictions for two or more offences that happened separately. They must also be seeking admission less than five years after completing all parts of sentences for these offences.

2.1.2 Criminal convictions abroad [A19(1)(c.1)(i), A19(2)(a.1)(i) and A19(2)(b)(ii)]

The second group includes A19(1)(c.1)(i), A19(2)(a.1)(i) and A19(2)(b)(ii). They describe persons you have reasonable grounds to believe were convicted of an offence(s) outside Canada. The offences would have equivalents in Canada, punishable under any Act of Parliament by: (1) a maximum of 10 years or more imprisonment; (2) less than ten years imprisonment; or (3) summary convictions.

Applicants must also have foreign convictions for two or more offences that occurred separately to fall into A19(2)(b)(ii). They remain inadmissible for five years after completing all parts of sentences for these offences.

2.1.3 Acts or omissions committed abroad [A19(1)(c.1)(ii) and A19(2)(a.1)(ii)]

The last group includes A19(1)(c.1)(ii) and A19(2)(a.1)(ii). They target people you have reasonable grounds to believe committed outside Canada an act or omission. The act or omission must be an offence where it occurred. It must also have a Canadian equivalent, punishable under any Act of Parliament by: (1) a maximum of 10 years or more imprisonment; or (2) less than ten years imprisonment.

2.1.4 Remaining classes of criminality – A19(1)(c.2), A19(1)(d), and A19(2)(b)(iii)

- A19(1)(c.2)

An applicant falls into A19(1)(c.2) if you have reasonable grounds to believe (see section 2.5): (1) a person is or was a member of an organization that; (2) is or was engaged in a pattern of criminal activity.

As part of this pattern, the organization must be acting to help commit an indictable offence in Canada, or an act or omission outside of Canada that would be such an offence in Canada. It may be punishable under the *Criminal Code* or the *Controlled Drugs and Substances Act*. If, despite reasonable grounds to believe any of the foregoing, the Minister is satisfied an applicant's admission is not detrimental to our national interest, the applicant is not inadmissible for this reason.

Applicants do not need to personally commit criminal acts. Nor must they be involved in the management of the organization. They only need to know that the essential nature of the organization is criminal. They must also have agreed to participate in the affairs of the organization.

Organizations include any partnership, corporation, association or other legal entity as well as any union or group of individuals associated in fact although not in law.

Activity that is part of a pattern of criminal activity includes:

- Activities indirectly related to the pattern of criminal activity, such as receiving income from criminal activity, investing income from criminal activity, establishing or acquiring an interest in any organization involved in a pattern of criminal activity or, participating, directly or indirectly, in the conduct of an organization involved in a pattern of criminal activity.

A pattern of criminal activity signifies:

- A common scheme or plan and not just a series of unrelated acts.
- Multiple criminal transactions pointing to a continuity or threat of continuity, rather than simply multiple acts to perpetrate one criminal transaction or a series of unconnected criminal transactions. Multiple acts means at least two criminal acts within the last ten years.

- A19(1)(d)

Persons are within the scope of A19(1)(d) for one of two reasons. In both cases you are required to have reasonable grounds to believe they are described in either (i) or (ii) of A19(1)(d). The former targets someone who will commit one or more offences punishable by indictment under any Act of Parliament. The latter affects someone who will participate in a group pattern of criminal activity planned and organized to help commit an indictable offence under any Act of Parliament.

Consult with the Organized Crime (BCO) and the geographic divisions of Case Management Branch (BCD) and the International Region (RID) before using A19(1)(c.2) or A19(1)(d).

- A19(2)(b)(iii)

Applicants convicted in Canada of one offence punishable by summary conviction and who you have reasonable grounds to believe were convicted of one offence outside Canada that is the equivalent of a summary conviction offence in Canada, fall into A19(2)(b)(iii). Offences under any Act of Parliament make an applicant inadmissible in this class as well. Five years after completing all parts of sentences for these offences, the applicant is no longer in this class.

2.2 What is a conviction?

You need to know applicants have a conviction before you can decide they are described in A19(1)(c), A19(c.1)(i), A19(2)(a), A19(a.1)(i), A19(2)(b)(i),(ii) and (iii).

A conviction is a finding by a court or other authority, not set aside upon appeal, that a person is guilty of an offence.

Conversely, a finding of guilt is not always a conviction. An example is subsection 736(3) of the *Criminal Code*. It explains the effect of absolute or conditional discharges. Where an accused pleads guilty or is found guilty, the court can direct that they be discharged. When the court makes such a direction "the offender shall be deemed not to have been convicted of the offence." An applicant with an absolute or conditional discharge from a Canadian court is not affected by A19(1)(c), A19(2)(a) or (b)(i).

The court must formally record its finding of guilt. Ideally, the formal record of the conviction will be a written judgement. You should make every effort to obtain a copy of the judgement.

An arrest record does not establish a conviction.

If a court delivers a suspended sentence, a conviction exists.

A person appealing a conviction, remains convicted until the conviction is overturned.

Persons convicted in absentia are inadmissible if they were served with or received official notification of the trial and chose not to participate in it.

You may have trouble deciding a conviction occurred in cases tried outside Canada. In Burgon, the Federal Court of Canada decided laws and legal systems in foreign jurisdictions, substantively similar in purpose, process and result to Canada's, should be respected, unless there is serious cause not to. If you are uncertain the finding of a foreign court is a conviction, examine it in light of the Federal Court's reasoning in Burgon.

For instance, judgements in certain American states such as "acquittal contemplating dismissal" or "deferral of prosecution" may have the same effect as a conditional or absolute discharge in Canada. If you determine this, a conviction has not occurred. On the other hand, "nolo contendere", a plea entered in the United States, is unknown in Canada. It has no equivalent in Canadian law. A finding of guilt following this plea is a conviction.

2.3 Pardons for convictions outside Canada

A pardon does not necessarily erase the effect of a conviction. You must consider several factors before deciding a pardoned person is admissible.

If a pardon recognizes a wrongful finding of guilt, the applicant is no longer convicted.

Pardons granted in an amnesty or after the passage of time, do not erase a conviction. This is also true when convicted persons or police are permitted to not mention it.

You should also examine laws that permit pardons or seal criminal records, in light of the Burgon decision. If they are part of a body of law and legal procedures with the same purpose, process and result as Canada's, and they have the effect of expunging the conviction, they may remove inadmissibility. An applicant whose conviction is spent under the *U.K. Rehabilitation of Offenders Act, 1974*, cannot be denied admission because of the conviction. You should ask for advice from Litigation and Legal Issues (ORL) before deciding that applicants pardoned by other statutes do not have convictions.

2.4 Young offenders

Applicants charged and found guilty under the *Young Offenders Act* (YOA) or a foreign equivalent are not convicted.

A young offender tried in adult court and found guilty, may have a conviction. You must know a young offender statute exists where the trial took place, but the case was transferred to adult court instead. If this is the case, treat the finding of guilt as you would for an adult (see sections 2.2 and 2.3).

A young offender facing charges in an adult court may fall into A 19(1)(c.1)(ii) or A 19(2)(a.1)(ii). They refer to an act or omission (see section 2.6 below).

If an applicant was convicted, or committed an act or omission, where there is no law like the YOA, you must decide if in Canada, on the same facts, the case would be transferred to adult court. You may feel uncomfortable putting yourself in the place of a court. Remember though, you are only deciding if someone is inadmissible. You are not trying the applicant.

Consult the YOA for definitions of "young person" and "child". Sub–sections 16(1) and (2) of the YOA list factors the youth court takes into account before transferring a case to ordinary court. You should consult these as well.

Keep in mind that the factors do not have equal weight. The heinous character of an offence might outweigh other factors. The maximum sentence under the YOA might also be inadequate punishment for some young offenders. In these cases transfer to adult court would be likelier.

2.5 What are reasonable grounds to believe?

A19(1)(c.1), A19(1)(c.2), A19(1)(d), A19(2)(a.1), A19(2)(b)(ii), and A19(2)(b)(iii) refer to reasonable grounds to believe. If you have "reasonable grounds to believe" you are more than suspicious. You have an objective basis for your belief. You must also have credible information to reasonably conclude a conviction, act or omission has occurred outside of Canada, or that a person is or was a member of an organization described in A19(1)(c.2). Would another rational person faced with this information reach the same conclusion? The information must be sufficiently specific, credible and reliable to support the allegation.

2.6 Act or omission

A19(1)(c.1)(ii), (c.2) and A19(2)(a.1)(ii) refer to an act or omission. The act or omission occurs outside of Canada and is an offence where it occurs. It has an equivalent offence under an Act of Parliament in Canada.

If the act or omission led to a conviction you must rely on A19(1)(c), (c.1)(i), (2)(a), or (a.1)(i). You cannot use A19(1)(c.1)(ii), (c.2) or A19(2)(a.1)(ii).

If the court did not convict, you should not use A19(1)(c.1)(ii), (c.2) or (2)(a.1)(ii) either. An act or omission leading to a charge that did not result in a conviction will not usually make an applicant inadmissible.

The exception might be an applicant who escaped conviction by a legal technicality. For example, DNA evidence might prove a person committed an offence. If it was improperly collected the guilty person could be acquited. You may decide to rely on A19(1)(c.1)(ii), (c.2) or A19(2)(a.1)(ii) in such an instance.

A finding of guilt that is not a conviction (e.g. conditional discharge or proceedings under the YOA or foreign equivalent) would also preclude you from using the act or omission provision.

You can use act or omission provisions when disposition of a charge is pending. An applicant named in an arrest warrant would also fall into A19(1)(c.1)(ii) or (2)(a.1)(ii). Remember, the act or omission resulting in charges or a complaint must have happened outside of Canada. It must also have an equivalent offence under an Act of Parliament, punishable by a term of imprisonment of: (1) less than ten years; or (2) ten years or more.

2.7 Equating foreign offences to Canadian offences

If a conviction exists or you have reasonable grounds to believe an act or omission was committed, you must find a Canadian equivalent offence. You can search among offences under any Act of Parliament. You cannot look for the equivalent offence in a provincial or municipal statute. You must also restrict your search to federal statutes in force when the applicant is seeking admission or applying for a visa or authorization. You cannot cite Canadian equivalents from outdated statutes, even if they were up–to–date at the time of the applicant's conviction, act or omission abroad.

Do not rely on a comparison of legal nomenclature. Read the full text of the offence in the foreign statute. You must find common elements in the foreign offence and an offence under a Canadian federal statute.

In addition to comparing texts, you may have to learn the circumstances of the offence.

In some countries offences against the state or political offences may have the same description as offences in Canada. Yet, if an applicant did the same thing in Canada that led to conviction abroad, authorities would not prosecute. You would not bar admission to an applicant with this type of conviction. Examples include the offences of sedition and libel. If you examine what applicants did or said, you may conclude that they would not be charged with the same crimes in Canada.

Offences in some foreign jurisdictions may be broader than Canadian offences. A simple comparison of the elements of the offences might not establish equivalency. You may need to look at an arrest report, the charges, or a statement from the applicant to find the same offence in Canada. The elements of the foreign offence may be divided between more than one Canadian offence.

If the foreign offence is narrower, you can establish equivalency by comparing the texts of the Canadian and foreign statutes.

The foreign offence might have several Canadian equivalents with different degrees of severity. For example, assault in Canada can be common assault (section 266 of the *Criminal Code*), assault causing bodily harm [section 267(1)(b)], aggravated assault [section 268(2)], assaulting a peace officer [section 270(2)], or sexual assault [section 271(1)]. You must know the circumstances of the foreign offence to find the correct Canadian equivalent.

Consult APPENDIX A for information about equivalents to alcohol related driving offences .

You may also consult APPENDIX B of IP 11, *Criminal Rehabilitation*, or Case Review (BCM) for more advice on finding equivalent offences. Include the following with requests sent to the Rehabilitation Section: (1) copies of the foreign indictment and certificate of conviction (with

translation); (2) translated copy of the offence from the foreign statute; (3) circumstances of offence; and (4) any other document or evidence which clarifies the elements of the offence.

2.8 Mixed offences

Some offences in Canada are punishable by either indictment or summary conviction.

You treat a foreign conviction for the equivalent of a Canadian mixed offence, as a conviction for an indictable offence. The choice of trial procedures by foreign prosecutors is irrelevant.

2.9 Calculating monetary equivalents

The Federal Court of Appeal has ruled that you use the rate of exchange at the time an offence occurred to equate it with a Canadian offence.

The Bank of Canada supplies historical exchange rates. You may request this information by fax or by mail. The fax number is (613) 782–7713. The postal address is Bank of Canada, Public Affairs, Secretary's Department, 234 Wellington St., Ottawa, Ontario, K1M 0G9.

2.10 Statutory time provisions

Applicants fall into A19(2)(b) only if they are seeking admission less than five years after completing all parts of sentences for their offences.

In cases with straightforward sentences, you can easily tell if the applicant is still inadmissible. When the sentence is more complex, the following information will assist you with the calculation.

For a suspended sentence, the five–year period begins on the conviction date.

A suspended sentence with a fine is completed on the date the fine is paid. If you do not know this date, use the date of sentencing instead.

In the case of a suspended sentence of imprisonment, calculate five years from end of the period of imprisonment that was suspended.

Terms of probation and the five–year period may overlap. The sentence ends when probation begins. If probation starts on the date of sentencing, add five years to that date.

Sentences including periods of parole are not completed until the parole period is over. Calculate five years from the day the parole period ended.

If the sentence includes suspension of a driver's license, you calculate five years from the end of the period of suspension.

2.11 Anticipated criminal activity

You use A19(1)(d) when you expect an applicant's illegal acts to cause harm. There must be a link between the applicant's presence in Canada and the illegal acts. You must also be able to infer from their past activities, that applicants will engage in prohibited conduct.

Consult with the Case Review (BCM), Case Management Branch (BCD), National Headquarters and the geographic desk in the International Region (RID) before using A19(1)(d).

2.12 Criminal rehabilitation

OP Chapter 18 explains how to use the rehabilitation provisions of the *Immigration Act*. You are not required to use these provisions everytime applicants fall into A19(1)(c.1) or (2)(a.1).

Your only duty is to consider evidence (an approved IMM 1444) of rehabilitation by the Minister. If the applicant is without evidence, you do not have to start the rehabilitation process.

If you take an application for approval of rehabilitation, suspend processing all other applications (IMM 8, IMM 1294/5/6 etc.). You must wait for the Minister's decision to know if there is evidence of rehabilitation. Do not take your decision before the Minister, even if you did not recommend approval of rehabilitation.

3. WAR CRIMES AND CRIMES AGAINST HUMANITY

A19(1)(j) describes persons who you have reasonable grounds to believe committed an act or omission that is a war crime or crime against humanity as defined in the *Criminal Code*. The act or omission would have to be an offence against the laws of Canada in force at the time it occurred.

Applicants can be described in A19(1)(j) even if they did not personally commit a war crime or crime against humanity. Complicity in such crimes through command of the perpetrators or membership in an organization with a brutal purpose, may be sufficient to find an applicant inadmissible.

Persons who fall into A19(1)(j) cannot benefit from the protection of the 1951 Geneva Convention relating to the Status of Refugees.

3.1 War crimes

You are told by A19(1)(j) to refer to section 7(3.76) of the *Criminal Code* for a definition of a war crime. It states a

> "war crime means an act or omission that is committed during an international armed conflict, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission, and that, at that time and in that place, constitutes a contravention of the customary international law or conventional international law applicable in international armed conflicts."

An act or omission must have occurred as part of an international conflict. The same act or omission in a civil war would not be a war crime. In a civil war the act or omission would likely be a crime against humanity.

War criminals can include, but are not limited to, members of government, the military, governing party, para–military, police, security or intelligence services. They may be non–citizèns of a state involved in the conflict.

The state or its government do not have to be internationally recognized.

Victims include but are not limited to, the wounded, sick, survivors of sunken ships, prisoners of war, and civilian inhabitants of occupied territories, including internees and detainees.

The offences include but are not necessarily limited to:

- Wilful killing.
- Torture or inhuman treatment including biological experiments.
- Wilfully causing great suffering or serious injury to body or health.
- Unlawful deportation or transfer.
- Unlawful confinement.
- Compelling a civilian to serve in the forces of a hostile power.
- Wilfully depriving a civilian of the rights of a fair and regular trial.
- Taking of hostages.
- Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully.
- Physical mutilations.
- Medical or scientific experiments on human beings.

- Removal of tissue or organs for transplantation.
- Wilfully making the civilian population or individual civilians the objects of attack.
- Wilfully launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects.
- Wilfully launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects.
- Wilfully making non–defended localities and demilitarized zones the objects of attack.
- Wilfully making a person the object of attack in the knowledge that he or she is *hors de combat*.
- The wilful and perfidious use of the distinctive emblem of the Red Cross, Red Crescent or Red Lion or of other protective signs recognized by the Conventions or the Protocol.
- The wilful transfer or deportation by the occupying power of all or parts of the population of the occupied territory within or outside the territory it occupies.
- Wilfully delaying the repatriation of prisoners of war or civilians.
- Wilfully practising apartheid and other inhumane and degrading practices involving outrages upon personal dignity based on racial discrimination.
- Wilfully attacking clearly recognized historic monuments, works of art or places of worship which constitute the cultural spiritual heritage of people and to which special protection should be given, causing extensive destruction thereof, where there is no evidence of prior use of such objects in support of the adverse party's military effort and when such places are not located in the immediate proximity of military objectives.

3.2 Crimes against humanity

Section 7(3.76) of the *Criminal Code* also defines a crime against humanity. It states:

> "a crime against humanity means murder, extermination, enslavement, deportation, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group of persons, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission, and that, at that time and in that place, constitutes a contravention of customary international law or conventional international law or is criminal according to the general principles of law recognized by the community of nations."

The notion of a crime against humanity is in constant evolution at international law. A more exhaustive definition is not possible. Knowing the salient features of the definition though, you can decide if an act or omission is a crime against humanity.

A crime against humanity may occur in war or peace. The perpetrator and the victims may be of the same or different citizenship. The crime need not affect mankind as a whole (humanity). The act or omission need only

surpass limits of what the international community considers tolerable, without having repercussions across frontiers. Acts or omissions committed within a state by citizens against co–citizens, which offend international standards of humane treatment, may be described as crimes against humanity.

The victim of the crime must be part of a civilian population or an identifiable group of persons. Single or isolated acts committed against individuals, not part of an identifiable group or population targeted systematically or in a widespread manner, are outside the scope of the definition.

4. MEDICAL INADMISSIBILITY

4.1 A19 – Paragraphs relating to inadmissibility

A19 bars admission to persons with two types of medical conditions.

A19(1)(a)(i) describes people with a condition that is or might be a danger to public health and safety.

A19(1)(a)(ii) cites people who will or might cause excessive demands on our health care system as well as certain social services.

A19(1)(a) also requires that two medical officers agree an applicant represents a danger or excessive demand. They indicate their agreement on a Medical Notification (IMM 5365). A medical profile (see OP 14, section 3.2 and IR 3, *Medical*) of either M4, M5, M6, or M7 on the IMM 5365 means the applicant is inadmissible.

You cannot overturn or ignore the medical officer's opinion regarding A19(1)(a)(ii). However, you are required to look at the reasonableness of the medical opinion. You cannot refuse an application if it appears that the medical officers have not considered all the medical evidence, including any evidence provided by the applicant, or if there is no clear linkage between the applicant's medical condition and the likelihood of excessive demands. In the narrative, the medical officers should indicate how or why the medical condition is likely to create excessive demands. The existence of a medical condition alone must not lead to an assumption that there will be excessive demands.

4.2 Inadmissibility for temporary entry

An applicant inadmissible as an immigrant, might not be inadmissible as a visitor. An immigrant may require services that a visitor with the same condition, would not require. You cannot use results of an immigrant's examination to refuse an application for temporary entry.

When an applicant changes categories, the medical officer must review the examination results for the new category. When you receive a medical notification for the new category, you can make a decision (see OP 14, section 3.5).

4.3 Inadmissibility for permanent residence

A person who fails a visitor medical examination is also likely to fail an immigrant examination. Still, you cannot use results of a visitor examination to refuse an application for permanent residence. You require results from a medical officer's assessment for an immigrant (see OP 14, section 3.5).

4.4 Convention refugees in Canada and their dependants abroad

A person recognized as a Convention refugee in Canada may apply for landing through CPC Vegreville. Dependants abroad may be included in the application for landing.

A46.04(3) exempts Convention refugees in Canada and dependents who seek landing from A19(1)(a). You cannot use A19(1)(a) to bar admission to these dependants.

If a Convention refugee is already a permanent resident of Canada and sponsors a dependant, you may use A19(1)(a). The dependant is a member of the family class and does not benefit from A46.04(3).

4.5 Dependants abroad of Post–Determination Refugee Claimants in Canada (PDRCC)

R11.4(1) exempts post–determination refugee claimants in Canada and dependants who seek landing from A19(1)(a). You cannot use A19(1)(a) to bar admission to these dependants.

If a post–determination refugee claimant in Canada is already a permanent resident of Canada and sponsors a dependant, you may use A19(1)(a). The dependant is a member of the family class and does not benefit from R11.4(1).

5. OTHER INADMISSIBILITY

5.1 A19(1)(b)

A19(1)(b) describes people who are, or will be, unable or unwilling to support themselves and persons depending on them for care. If they satisfy you arrangements for care and support (not involving social assistance) are in place, they do not fall into this class.

You can refuse all categories for this reason, except DR2s, PD2s and RM2s.

Sponsored applicants are normally outside its scope as well. Guidelines in OP chapters 2, and 5 help you decide if applicants fall into this class.

5.2 A19(1)(i)

A19(1)(i) describes people who do not have Minister's consent to come into Canada.

They require Minister's consent as an effect of a deportation or exclusion order. A55 describes the effect of these orders.

A55(1) concerns deportation orders. Unless applicants successfully appeal these orders, they always need Minister's consent.

> ***Note:*** *Through the operation of various sections of the Immigration Act and transitional provisions of acts amending it, other kinds of removal orders can become deportation orders. When this happens, they have the effect described in A55(1). Consult the definition of deportation order in A2(1) for an exhaustive list of these removal orders.*

A55(2) concerns exclusion orders. Only applicants returning to Canada within twelve months of their departure need Minister's consent. A2(1) also defines exclusion order.

The effect of the deportation or exclusion order is the same even if the person it names takes advantage of A 52(1). A 52(1) allows people to leave Canada voluntarily for a country of their choice, unless the Minister directs otherwise. They must follow departure instructions from immigration officials in Canada. Notably, they must report to an immigration officer when they leave. The immigration officer will verify their departure.

Removed applicants may return for appeal hearings without consent [A56(1)].

Dependants of a removed person may be included in the removal order [A33(1)]. They do not need Minister's consent to return to Canada. You cannot use A19(1)(i) to bar their admission.

DR2s and PD2s are exempt from A19(1)(i). You cannot use A19(1)(i) to bar their admission.

5.3 A19(1)(e), (f), (g), and (k)

A19(1)(e), (f), (g), and (k) describe people who may not be admitted to Canada for security reasons. Except for A19(1)(k), they are people you have reasonable grounds to believe will or have engaged in acts of espionage, subversion, terrorism, or violence. They may also be people you have reasonable grounds to believe are or were members of

organizations that engage, have engaged or will engage in any of these acts. A19(1)(g) covers as well, people who are likely to participate in unlawful activities of an organization likely to engage in acts of violence. The applicant does not have to be a member of such an organization. A19(1)(k) is a residual class. It describes people who are a danger to national security, not covered by any other of these classes.

You should not refuse an application for these reasons without approval from Security Review (BCZ), Case Management, National Headquarters. You also require written approval of the Minister and the Solicitor General to use A19(1)(k).

If you consider an applicant falls into any of these classes, inform BCZ of the case details. State why the applicant is inadmissible. Copy this information to the RID geographic division as well.

Consult chapter IC 1, *Security and Criminal Screening of Immigrants* for further information about these classes of inadmissibility.

5.4 A19(1)(l)

A19(1)(l) describes senior members or officials of governments designated by the Minister. Governments that engage in terrorism, systematic or gross human rights violations, war crimes or crimes against humanity are on the list. You cannot use this part of A19 unless the government is on this list.

To date the Minister has designated:

(1) the Marxist Government of Afghanistan (1978 to 1992);

(2) the Bosnian Serb Government (March 27, 1992 to October 19, 1996);

(3) the Government of Siad Barre in Somalia (1969 to 1991); and

(4) three Haitian Governments (January 1971 to February 1986), (October 1991 to August 1993), (December 16, 1993 to October 15,1994).

(5) the Government of Iraq (1968 to the present).

Senior members and senior officials are described in A19(1)(l)(1.1). This list is not exhaustive. Persons who have or can exert influence on the exercise of government power, even if they do not or did not occupy the positions on the list, are inadmissible. Consult with BCM and the geographic division of RID, if you are unsure an applicant's rank is senior.

The Minister designates governments after you receive an application from someone who might fall into A19(1)(l). When you think you have such an application, inform the geographic divisions of RID and the Department of Foreign Affairs and International Trade, as well as BCZ.

5.5 Admission not detrimental to national interest

Persons described in A19(1)(f) and (l) may satisfy the Minister that their admission would not be detrimental to the national interest. If they submit evidence they have done so, they are no longer inadmissible for security reasons.

6. REFUGEES AND INADMISSIBILITY

Canada has obligations to Convention refugees under the 1951 Geneva Convention relating to the Status of Refugees and 1967 Protocol.

A4(2.1) translates one of these obligations into a principle of the Act. It gives Convention refugees, lawfully in Canada, the right to remain there. They cannot be expelled unless they are described in A19(1)(c.1), (c.2), (d), (e), (f), (g), (j), (k) or (l). A4(2.1) also makes them eligible for expulsion if sentenced to more than six months imprisonment or, convicted of an offence for which a sentence of five years or more may be imposed.

A53 expresses another Convention obligation. A Convention refugee cannot be expelled to a country where his/her life or freedom would be threatened, unless they are described in A19(1)(c), (c.1)(i), (e), (f), (g), (j), (k), or (l) and the Minister believes they are a danger to the public or national security.

Convention refugees outside of Canada are not protected by these obligations. You are not restricted in using A19 when dealing with a Convention refugee abroad.

APPENDIX A
EQUIVALENTS TO ALCOHOL RELATED DRIVING OFFENCES

There are two sections of the *Criminal Code* that are relevant to this issue: (1) section 253; and (2) section 254(5).

Section 253 reads as follows:

> "Everyone commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aircraft or of railway equipment or has care or control of a motor vehicle, vessel, aircraft or railway equipment, whether it is in motion or not, (a) while the person's ability to operate the vehicle, vessel aircraft or railway equipment is impaired by alcohol or drug; or (b) having consumed alcohol in such quantity that the concentration in the person's blood exceeds eighty milligrams of alcohol in one hundred millilitres of blood."

Section 254(5) reads as follows:

> "Everyone commits an offence who, without reasonable excuse, fails or refuses to comply with a demand made to him by a peace officer under this section."

The penalty for committing the aforementioned offences is described in section 255.

The following scenarios may assist in determining whether or not a person is inadmissible.

i) The person concerned is convicted (outside of Canada) on the basis that the alcohol level in the blood exceeded the prescribed limit, where the law of the country has the same or a higher standard than Canada (80 milligrams of alcohol to 100 millilitres of blood). The equivalence would normally be *Criminal Code*, section 253(b).

ii) The person concerned is convicted, on the basis that the person's ability to operate a vehicle was impaired by alcohol or drug. The equivalence would normally be *Criminal Code*, section 253(a).

iii) The person concerned is convicted based upon a blood count of less than 80 milligrams of alcohol to 100 millilitres of blood, with no indication in the record that the person's ability to operate a vehicle was impaired by alcohol or drug. There is no equivalent in the *Criminal Code* and consequently, no inadmissibility.

iv) The person concerned is convicted based upon a blood count of less than 80 milligrams of alcohol to 100 milligrams of blood, but the record indicates that the person's ability to operate a vehicle was impaired by alcohol or drug. The equivalent section of the *Criminal Code* would be 253(a).

v) The person concerned is convicted for refusing to give a blood or a breath sample. The equivalence would be *Criminal Code*, section 254(5).

IMMIGRATION

Canada

Chapter OP 18
Criminal Rehabilitation





Citizenship and Immigration Canada

Citoyenneté et Immigration Canada

Criminal Rehabilitation

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1. INTRODUCTION

1.1 What this chapter is about

This chapter explains how you process requests for approval rehabilitation from applicants described in A19(1)(c.1) and A19(2)(a.1).

1.2 Legislative intent

A19(1)(c.1) and A19(2)(a.1) allow the Minister to grant rehabilitation, after passage of a set period of time, to persons, who have committed criminal acts outside of Canada. [See OP 17 about how to decide if an applicant falls into A19(1)(c.1) and A19(2)(a.1).]

A121(1) allows the Minister to delegate this authority to public servants. Instrument I–53 in IL 3 lists immigration officials (delegated authorities) who may grant rehabilitation to applicants described in A19(2)(a.1). The Minister reserves sole authority to grant rehabilitation to applicants described in A19(1)(c.1).

1.3 What is rehabilitation approval?

You cannot admit or issue visas to persons who, outside of Canada, committed or were convicted of criminal acts, unless the Minister or a delegated authority approves rehabilitation. When either is convinced future unlawful activities are extremely unlikely, they may approve a rehabilitation request.

Applicants who successfully request rehabilitation approval for specific criminal acts are no longer inadmissible because of those acts.

Persons convicted of an offence in Canada must obtain a pardon under the Criminal Records Act to overcome inadmissibility (see section 3.2).

1.4 Rehabilitation process–roles and responsibilities

- Visa officer and Canada Immigration Centre

You ensure each recommendation to the Minister or delegated authority contains sufficient information to make a decision.

- National Headquarters

Interprets legal issues and provides functional, operational and technical guidance to ensure recommendations are supportable.

Identifies relevant facts to facilitate consistent decision–making by the Minister or delegated authority that conforms to high standards.

Scrutinizes, presents and explains cases to the Minister.

2. INFORMATION FOR CLIENTS

2.1 Why provide information to clients?

Information to clients allows them to:

- Understand why they are inadmissible to Canada.
- Determine if they are eligible to request approval of rehabilitation from the Minister.
- Determine if they should apply for a pardon under the Criminal Records Act.
- Accept the onus of proving they are now law abiding members of society.
- Determine the documents they need to support their request.

2.2 How to provide information to clients

Send the kit, Applying for Criminal Rehabilitation [IMM 5312 (04–94)] to clients on request or when you feel it is appropriate.

The kit provides clients with:

- Information to help them determine if they are criminally inadmissible.
- Information on how to overcome criminal inadmissibility.
- An application for approval of rehabilitation and instructions on how to complete it.
- Information on cost recovery fees.

3. REQUEST FOR APPROVAL OF REHABILITATION

3.1 Who may apply for approval of rehabilitation?

Persons seeking admission to Canada may apply for rehabilitation if:

- The criminal activity occurred outside Canada and falls within the provisions of A19(1)(c.1)(i), A19(1)(c.1)(ii), A19(2)(a.1)(i), or A19(2)(a.1)(ii).
- The statutory five−year waiting period has passed.

3.2 Who cannot apply for approval of rehabilitation?

Persons with offences in Canada who are described under A19(1)(c) or A19(2)(a) cannot apply for approval of rehabilitation. They must apply to the National Parole Board for a pardon under the Criminal Records Act.

Clients can request a pardon application kit or additional information, from:

Clemency and Pardons Division
National Parole Board
340 Laurier Avenue West
Ottawa, Ontario K1A 0R1
Telephone: 1−800−874−2652 (callers in Canada and U.S.A. only)
FAX: (613) 995−4380

Note: More information concerning the pardon procedure for offences committed in Canada may be found in APPENDIX A.

Persons described in A19(2)(b) do not need rehabilitation approval. Their inadmissibility is removed by the passing of the statutory five−year period. When you know immigrants are no longer described in A19(2)(b), enter "yes" at item 18 on the IMM 1000 and A5(2) in the remarks section (see ID 3, *Landed Immigrant Data System*, APPENDIX A, section 4.). You can give non−immigrant clients a letter indicating they are no longer described in A19(2)(b) because of these convictions.

An NCB note in FOSS will facilitate future visits.

3.3 Who requires both approval of rehabilitation and a pardon?

Persons who committed or have been convicted of criminal acts outside of Canada and who have also been convicted of one or more offences in Canada require both rehabilitation approval and a pardon under the Criminal Records Act to overcome their inadmissibility. Normally, they will not request rehabilitation until they have obtained a pardon to overcome the inadmissibility under paragraph A19(2)(a) or 19(1)(c). If applicants were dealt with by summary conviction in Canada, they may request rehabilitation approval if they provide evidence of an application to the National Parole board for a pardon.

3.4 How do clients apply for rehabilitation?

Clients complete an Application for Approval of Rehabilitation (IMM 1444). With their applications, clients must provide a written statement outlining the circumstances of their offence(s) and an account of all efforts they have made to re–establish themselves as law abiding members of society.

3.5 Completion of the application

The IMM 1444 is divided into three parts. The client completes Part A. You and a reviewing officer/officer in charge of a visa office complete Part B. The Director, Case Review (BCM), Case Management Branch (BCD) at NHQ or a delegated authority (see section 5.1) completes Part C. Instructions for completing Part A are in the application kit. For assistance in completing Part B consult sections 6.6 and 7.2.

3.6 Initial screening of application

When an application is received, screen it to determine if:

- The correct cost recovery fee is included.
- Part A of Application for Approval of Rehabilitation is fully completed.
- There is enough supporting documentation to enable an officer to determine if an applicant is likely to be approved for rehabilitation.
- The application can be dealt with by a delegated authority (see section 5.1) or if it must be sent to BCM/NHQ.

3.7 Mandatory supporting documentation

All applications for approval of rehabilitation require:

- Criminal clearance certificates obtained from the appropriate authorities in the areas where the applicant has resided for the past ten years. Clients who have resided in the United States of America must also obtain a police record from the Federal Bureau of Investigations.

  Note: Refer to IC 1, Security and Criminal Screening of Immigrants, for addresses of country police authorities.

- Conviction certificates for all convictions. Acceptable proof may be original or certified true copies of each court judgement against the client. This information must be sufficient to establish the nature of the offence. If the conviction certificate does not include enough information, obtain court records or transcripts.

  Note: If you are satisfied clients have, to the best of their ability, tried to obtain conviction certificates, but cannot, statutory declarations from clients may be satisfactory. Each statutory declaration must describe the offence(s) in as much detail as possible and explain why the applicant was unable to obtain a conviction certificate.

- Applicant's personal written statement, translated into French or English, fully detailing circumstances of the offence. If there is no conviction for the offence, the written statement must contain sufficient information to establish the nature of the offence. Normally, the written statement will be found in question 10 on the applicants' section of the IMM 1444.

- RCMP in–Canada criminal clearance certificate (mandatory for in–Canada cases only).

3.8 Non–mandatory documentation

You may wish to obtain other documentation from clients, or other sources, in order to determine if a favourable recommendation should be made.

Documentation could include:

- Rehabilitation letters (character references), court records and transcripts.
- Probation or parole officer's reports.
- Pardons which do not annul convictions retroactively.
- File notes if the applicant has dealt with another visa office or CIC.
- Court Records and transcript which may in some cases be essential to determine on what grounds the subject is inadmissible.
- Copy of the foreign statute translated to English or French.

  Note: Applicants can obtain foreign statutes from law libraries, court houses, lawyers or the local police force and from their embassy or consulate. If it is not possible or appropriate to direct an applicant to their embassy or consulate (eg. a refugee), you may contact the visa office responsible for the country concerned for assistance in obtaining this information.

- Any other documentation you deem appropriate to facilitate decision making.

3.9 Incomplete applications

Do not forward incomplete applications to the BCM/NHQ. Inform applicants that processing cannot begin until they submit all required documents and information.

4. COST RECOVERY

Section 16 of The Immigration Act Fees Regulations requires that the fee prescribed in section 15 of the schedule be paid on application and that a receipt be issued.

4.1 Fee exemptions

There are no exemptions from the payment of this fee.

4.2 Forms of payment

CICs and visa offices should ensure that up to date information pertaining to the cost recovery fee and acceptable methods of payment is included in the kit Applying for Criminal Rehabilitation before the kit is sent to a client.

A record or receipt, according to The Financial Administration Act, will be issued when the application is received.

4.3 Problems with fee payment

If the fee is incorrect, request the correct fee and explain that the request for rehabilitation is suspended until the full fee is paid.

Note: For more information on cost recovery issues, see IR 5, Immigration Cost Recovery Processing.

6. REFUGEES AND INADMISSIBILITY

Canada has obligations to Convention refugees under the 1951 Geneva Convention relating to the Status of Refugees and 1967 Protocol.

A4(2.1) translates one of these obligations into a principle of the Act. It gives Convention refugees, lawfully in Canada, the right to remain there. They cannot be expelled unless they are described in A19(1)(c.1), (c.2), (d), (e), (f), (g), (j), (k) or (l). A4(2.1) also makes them eligible for expulsion if sentenced to more than six months imprisonment or, convicted of an offence for which a sentence of five years or more may be imposed.

A53 expresses another Convention obligation. A Convention refugee cannot be expelled to a country where his/her life or freedom would be threatened, unless they are described in A19(1)(c), (c.1)(i), (e), (f), (g), (j), (k), or (l) and the Minister believes they are a danger to the public or national security.

Convention refugees outside of Canada are not protected by these obligations. You are not restricted in using A19 when dealing with a Convention refugee abroad.

5. RECOMMENDING REHABILITATION

Rehabilitation means only that the risk of further criminal activity is improbable. You may consider applicants rehabilitated if they prove they lead a stable life with no further criminal involvement.

5.1 Determining eligibility

Review the application to ensure that:

- The applicant is inadmissible to Canada under the provisions of A19(1)(c.1), or A19(2)(a.1).
- Five years or more have passed since expiration of the sentence imposed, or since the act or omission was committed.

If applicants are described in A19(2)(a.1), they may be eligible to apply to a delegated authority for approval of rehabilitation. To be eligible they must:

- **not** have more than two convictions [A 19(2)(a.1)(i)];

or

- **not** have committed more than one act or omission [A 19(2)(a.1)(ii)];

and

- **not** be described in any criminally inadmissible class other than A19(2)(a.1) (i) or (ii);
- **not** have used violence, a weapon or caused serious property damage or injury to anyone while committing the offence(s), act or omission.

If applicants described in A19(2)(a.1) are not eligible to apply to a delegated authority for rehabilitation, forward the application to BCM.

Review all applications, whether they are to a delegated authority or the Minister, according to the guidelines in section 6.

Explain in writing to ineligible applicants why they are ineligible. Inform them if they can take any further action.

If you feel a Minister's permit may be appropriate, refer to manual chapter OP19/IP 12, *Minister's Permits*.

5.2 Calculating the five–year rehabilitation period

In cases with straightforward sentences, you can easily tell if the applicant is eligible. When the sentence is more complex, the following information will assist you with the calculation.

For a **suspended sentence**, the five–year period begins on the conviction date.

A **suspended sentence with a fine** is completed on the date the fine is paid. If you do not know this date, use the date of sentencing instead.

In the case of a **suspended sentence of imprisonment**, calculate five years from end of the period of imprisonment that was suspended.

Sentences including periods of **parole** are not completed until the parole period is over. Calculate five years from the day the parole period ended.

Conversely, terms of **probation** are within the five–year period. The sentence ends when probation begins. If probation starts on the date of sentencing, add five years to that date.

If the sentence includes **suspension of a driver's license**, you calculate five years from the end of the period of suspension.

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6. DETERMINING REHABILITATION

You must take a number of factors into account to assess whether a person is rehabilitated. You may measure rehabilitation by the passage of time and an examination of activities and lifestyle pre– and post–offence. Rehabilitation does not mean there is no risk of further criminal activity, only that the risk is minimal.

The reason for coming to Canada is not a consideration for rehabilitation.

6.1 Type of offence

6.1.1 Minor offences

Applicants with a couple of minor offences may have little difficulty convincing you of their rehabilitation. Normally the offences are isolated, out of character and not indicative of criminal behaviour. However, even submissions for minor offences must be supported by the mandatory documents listed in section 3.7. In some of these cases an interview may not be required.

6.1.2 More serious offences or multiple offences

Applicants with more serious or multiple offences require closer scrutiny. Normally, an interview will be required.

Offences may involve:

- A pattern of repeated offences that suggest a criminal lifestyle.
- The use of weapons or explosives.
- Violence or hostage taking.
- Sexual assault.
- History of substance or alcohol abuse.
- Use of force.
- Assault.
- Possession and trafficking of narcotics.
- Fraud.

6.2 Rehabilitation considerations and evaluating risk

You must assess rehabilitation considerations to determine the likelihood or risk of applicants' continued involvement in unlawful activities. These include:

- Acceptance of responsibility for the offence.
- Evidence of remorse for any harm done.
- Evidence of restitution, where possible, to victims of their crimes.
- Persons whose criminal involvement included, or was the result of, drug or alcohol abuse, sexual abuse, psychological disturbance, or a history of assaults, often require counselling or therapy in order to achieve rehabilitation.

- Evidence of successful completion of a rehabilitation program as well as any evidence of a change in lifestyle.
- Evidence of stability in employment and family life. Applicants who have been involved in a criminal lifestyle often exhibit instability in their lives. Participation in educational and skill training programs, steady employment and a positive family life may indicate a change in lifestyle.

Note: You may wish to consult APPENDIX B for rehabilitation considerations related to various types of persons who have had a criminal history.

6.3 Assessing the information – Your role in determining facts of case.

In most cases you will need to interview the client to obtain missing information, clarify information already provided, and assess credibility. Make it clear to clients that you are trying to judge if they are rehabilitated and how great the chance of recidivism is. You should give them an opportunity to respond to any concerns you may have.

If you use releasable third party information to make your recommendation, you must share the information with applicants and give them an opportunity to respond to it.

If you have non–releasable third party information unknown to the client, you must exercise discretion. Consider speaking to the applicant without releasing the source of the information or seek advice from Legal Services.

Applicants must explain inconsistencies or contradictions. If the client presents documentation or makes statements which you feel are not accurate, try to verify if the facts, as they have been presented, are true. Although the onus is on the applicant to provide you with documentation, in cases where you feel there may be misrepresentation, you should conduct an independent investigation into the circumstances of the offence. This may involve obtaining police reports, if the client has not already submitted them, or obtaining the judge's remarks on conviction or sentencing.

6.4 Rehabilitation submission

Submit all recommendations to NHQ on form IMM 1444. You can use either the IMM 1444 or CAIPS notes when making a recommendation to a delegated authority. Forwarding instructions are in section 6.6. A completed IMM 1444 must include the following information.

- Offence and sentence (where a fine was imposed the amount of the foreign currency must be converted into current Canadian dollars).
- Date and place of occurrence.
- Circumstances leading up to the commission of the offence.
- Motives for committing the offence.
- How the offence was perpetrated.
- The degree of violence involved, including the use of weapons.
- The degree of harm done to the victim (physical and psychological). The impact on the victim may be evident from the nature of the offence or from court records.

- The part the offender played in the offence.
- The level of cooperation of the applicant with the authorities following the arrest.
- The applicant's acceptance of responsibility for the offence, and any evidence of remorse or contrition.
- Whether the applicant's version is consistent with the official version. Comment briefly if there are major discrepancies.
- Your recommendation.

If available and relevant, you should also submit the following information.

- Whether the offence has received extensive publicity.
- The sentencing judge's comments including recommendations regarding parole.

Supporting Documentation.

- Proof of the conviction, act or omission. This information must be sufficient to establish the nature of the offence. If the conviction certificate does not include enough information, then court records or transcripts should be obtained.
- Statutory Declaration – If a conviction certificate was not obtained, a statutory declaration from the applicant describing the offence(s) in detail and an explanation why no proof of conviction not available.
- Criminal clearance certificate obtained from the police authorities in the areas where the applicant has resided for the past ten years.
- Canadian criminal clearance certificate for all persons who have resided in Canada.
- F.B.I. certificate for applicants who have resided in the U.S.A..
- Documentary evidence as proof of rehabilitation is left to your discretion. The type of documentation will depend on the nature and severity of the crime committed, and the length of time that has elapsed since the offence, act or omission was committed. It could include, probation or parole reports, certificates of rehabilitation, letters of recommendation from public officials or respected private citizens. Where a letter of reference is provided it need not specifically refer to the offence. Usually the facts of the case speak for themselves offsetting the need for any specific evidence of rehabilitation.

6.5 Recommendation or approval by delegated authority

The onus is on applicants to demonstrate they have overcome past difficulties which brought them into conflict with the law. Assess the risk presented by the applicants' presence in Canada on the basis of the factors in section 6.4.

You should reflect on the chances of these applicants entering or remaining in Canada without committing further offences. What are their chances of successful resettlement without committing a further offence? Is criminal activity likely to reoccur? Applicants must demonstrate clearly that rehabilitation has taken place. You should not submit a favourable recommendation or approve an application when the applicant is unable or unwilling to demonstrate that there is a low risk of recidivism.

6.6 Where to send the submission

You must send the IMM 1444 to either the Director, Case Review (BCM), Case Management Branch (BCD), NHQ, or a delegated authority. The latter can only receive applications for people who meet the eligibility criteria in section 5.1.

BCM requires the original and one copy of the IMM 1444. Based on the officer's recommendation and the reviewing officer's comments, BCM prepares a recommendation for the Minister.

Delegated authorities base their decisions on the officer's recommendation.

Completion instructions for Part B of the IMM 1444 vary depending on who you submit it to.

- Submissions to BCM.

The officer making the recommendation completes boxes 1 to 15 of Part B. A reviewing officer or officer in charge of a visa post completes the remaining boxes (16 to 20).

- Submissions to a delegated authority.

The officer making the recommendation completes applicable boxes 1 to 15 of Part B. If officers use CAIPS notes instead, they must include all the applicable information they would have provided in Part B of the IMM 1444.

6.7 Negative recommendations and dissenting opinions

Even if your recommendation is negative, you should still submit it to BCM or a delegated authority.

In cases that you must submit to BCM, the reviewing officer or officer in charge of the visa post may disagree with your recommendation. If this happens forward the IMM 1444 to BCM anyway. Officers there will review your recommendation, the comments of the reviewing officer or officer in charge, and decide if a positive recommendation to the Minister is supportable.

7. COMMUNICATING THE DECISION

7.1 Decision of the Minister

The decision of the Minister is recorded in Part C of the IMM 1444 and returned to the originating office by NHQ.

7.2 Decision of a delegated authority

Record decisions in Part B, box 18 of the IMM 1444. Enter either "Authority from the Minister for relief under A19(2)(a.1) granted" or "Authority from the Minister for relief under A19(2)(a.1) not granted". Complete items 19 and 20 (signature and date) for both approvals and refusals. You may also use CAIPS notes to record this information if you prefer.

7.3 Positive decision

Officers will inform applicants in writing and provide instructions on how to proceed with their immigrant/visitor applications.

Applicants for visitor visas only or applicants who do not require anything but approval of rehabilitation, must receive an approval letter (APPENDIX C). This letter is the only proof of rehabilitation they can present at a port of entry.

7.4 Negative decision

Applicants who do not require anything but approval of rehabilitation must receive a refusal letter. An example of a refusal letter is in APPENDIX D.

If applicants also apply for a visa or authorization, give them a refusal letter for the visa or authorization application. State there is no evidence the Minister or the delegated authority (depending on which of them received the IMM 1444) considers the applicant rehabilitated. Do not use the refusal letter in APPENDIX D.

8. REPORTING

8.1 Reporting approved and refused requests and those not submitted for approval.

- In–Canada requests.

Record all requests for rehabilitation originating in Canada in the WIP (Work in Process) module of FOSS. Later, show whether the application was approved or refused, and the decision date.

- Request at a visa office.

Requests originating overseas are not recorded on FOSS at this time.

9. FEEDBACK

9.1 Responding to representations.

The Privacy Act allows you to release personal information to clients and their Canadian citizen or permanent resident designated representatives. Before responding to a representation, confirm identity and that you have authorization to release personal information. This applies to representations made in person, by mail, or by telephone.

APPENDIX A
PARDONS FOR CONVICTIONS IN CANADA

Persons who have obtained criminal convictions in Canada can no longer apply for rehabilitation. Rather, to overcome inadmissibility, they are to apply to the National Parole Board for a pardon. Section 3 of the *Criminal Records Act* provides that a person who has been convicted of an offence under an *Act of Parliament* or a regulation made under an *Act of Parliament* may apply to the National Parole Board for a pardon of that offence.

Before an application for a pardon may be considered, the following period must have elapsed after the expiration according to law of any sentence, including a sentence of imprisonment, a period of probation and the payment of any fine, imposed for an offence:

- five years, in the case of an offence prosecuted by indictment, or a service offence within the meaning of the *National Defence Act* [*Criminal Records Act*, subsection 4(a)];
- three years, in the case of an offence punishable on summary conviction, or a service offence within the meaning of the *National Defence Act*, other than a service offence referred to in paragraph 4(a)(ii) of the *Criminal Records Act*.

For an offence prosecuted by indictment, the National Parole Board may grant a pardon if it is satisfied that the applicant, during the period of five years, has been of good conduct and has not been convicted of an offence under an *Act of Parliament* or a regulation made under an *Act of Parliament*.

For an offence punishable on summary conviction, a pardon shall be issued if the offender has not been convicted of an offence under an *Act of Parliament* or a regulation made under an *Act of Parliament* during the period of three years.

Under section 5 of the *Criminal Records Act*, a pardon:

is evidence of the fact that the Board, after making proper inquiries, was satisfied that the applicant for the pardon was of good behaviour and that the conviction in respect of which the pardon is granted or issued should no longer reflect adversely on the applicant's character; and, unless the pardon is subsequently revoked or ceases to have effect, vacates the conviction in respect of which it is granted and, without restricting the generality of the foregoing, removes any disqualification to which the person so convicted is, by reason of the conviction, subject by virtue of the provisions of any *Act of Parliament*, or a regulation made thereunder.

Pardon application kits or additional information can be obtained from:

Clemency and Pardon Division
National Parole Board
340 Laurier Avenue West
Ottawa, Ontario,
K1A 0R1
Tel.: 1–800–874–2652 (callers in Canada and U.S.A. only)
FAX: (613) 952–6728

APPENDIX B
CRIMINAL PROFILES

Determine whether the applicant is best described under Type 1, 2, 3, 4 or 5. Take into account the rehabilitation factors appropriate to the Type.

Type 1

Description

Relatively stable lifestyle. Established in the community and minimal offence history. Offences are generally motivated by an isolated event. Offences may be viewed as a temporary lapse. Unlikely to get involved in further criminal activity.

Rehabilitation Factors

- Understanding of the offence.
- Responsibility taken for the offence.
- No negative contact with the law.

Type 2

Description

May be well established and have minimal offence history. Marked by any of the following characteristics: (1) history of sexual offences; (2) drug or alcohol abuse; (3) serious emotional disturbance; or (4) history of assaults. They often deny or minimize their problems. They often require counselling or therapy to attain rehabilitation.

Rehabilitation Factors

- Understanding of the offence.
- Responsibility taken for the offence.
- Drug or alcohol counselling.
- Psychological counselling.
- No negative contact with the law.

Type 3

Description

They lack social and vocational skills. Intellectual deficits may also contribute to their problems. Criminal behaviour is usually a result of their inability to succeed and a strong tendency to be led by more sophisticated associates. They demonstrate little foresight about the consequences of their behaviour. There is a high element of impulsiveness in their behaviour. They tend not to learn from their mistakes. Rehabilitation is indicated by improved survival and social skills. They often require training or education to bring about change. A change in social setting is also necessary.

Rehabilitation Factors

- Understanding of the offence.
- Responsibility taken for the offence.
- Drug or alcohol counselling.
- Education/employment/life–skills training.
- New social groups.
- Stable employment pattern.
- Stable marriage/family life.
- Stable living arrangements.
- No negative contact with the law.

Type 4

Description

They display a fair degree of comfort with a criminal lifestyle and long–term involvement with criminal activities. They are motivated by a need to prove their ability to manipulate people and "beat the system." Their crimes are generally motivated towards material gain. Guilt over criminal activities is generally superficial. They tend to deny or minimize any personal problems and assign blame for criminal activity to others or to circumstances. Rehabilitation is difficult. They often require counselling or therapy. Rehabilitation is indicated by involvement in non–manipulative relationships and pro–social activities.

Rehabilitation Factors

- Understanding of the offence.
- Responsibility taken for the offence.
- Education/employment training.
- New social groups.
- Stable employment pattern.
- Stable marriage/family life.
- No negative contact with the law.

Type 5

Description

Marked by numerous changes in residence, marital problems or an inability to provide consistent financial support. They show an instability in their employment, family life and living situation. They have a general lack of direction in their life. They often use drugs and alcohol habitually. They have serious emotional problems and negative self–perceptions. They have a considerable number of arrests for summary offences. Their inability to deal appropriately with personal problems usually prevents them from acquiring and maintaining steady employment. Rehabilitation is indicated by an increased stability in all areas of their life. They often require substance abuse counselling.

Rehabilitation Factors

- Understanding of the offence.
- Responsibility taken for the offence.
- Drug or alcohol counselling.
- Education/employment/life–skills training.
- New social groups.
- Stable employment pattern.
- Stable marriage/family life.
- Stable living arrangements.
- Psychological counselling.
- No negative contact with the law.

APPENDIX C
REHABILITATION APPROVAL LETTERS

- **A 19(2)(a.1)(i)**

This refers to your application for approval of rehabilitation.

I have approved your application. You are no longer described in subparagraph 19(2)(a.1)(i) of the *Immigration Act* because of your conviction(s) for the offence(s) of [specify offence(s)] in (name of country) on [specify date(s)].

Please note that approval of this application for rehabilitation does not exempt you from any other requirement of the *Immigration Act* or the *Immigration Regulations*.

Yours sincerely,

(signature of delegated authority)
Name of delegated authority
Title

- **A 19(2)(a.1)(ii)**

This refers to your application for approval of rehabilitation.

I have approved your application. You are no longer described in subparagraph 19(2)(a.1)(ii) of the *Immigration Act* because you committed the act or omission of (specify act or omission) in (name of country) on (specify date).

Please note that approval of this application for rehabilitation does not exempt you from any other requirement of the *Immigration Act* or the *Immigration Regulations*.

Yours sincerely,

(signature of delegated authority)
Name of delegated authority
Title

APPENDIX D
REHABILITATION REFUSAL LETTER

This refers to your application for approval of rehabilitation.

I am unable to approve your application. I am not convinced that you are rehabilitated because (cite reasons for your decision).

I realize that this decision will disappoint you and regret that it could not be favourable.

Yours sincerely,

(signature of delegated authority)
Name of delegated authority
Title

IMMIGRATION

Canada

Chapter OP 19
Minister's Permits



Citizenship and Immigration

Canada

Chapter OP 19

Minister's Permits



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1 INTRODUCTION

1.1 What is this chapter about?

This chapter tells you why and how inadmissible persons (A19), or persons reported or who may be reported under subsection 27(2) of the Act, come into or remain in Canada [A37(1)].

1.2 Policy intent

A3 states that policy, rules and regulations made under the *Immigration Act* need to serve a variety of aims. Minister's permits (IMM 1263) exist to help balance competing aims in special circumstaces. For this reason, they are the prerogative of the Minister.

Although the Minister delegates this privilege through A121(1) and Instrument I-2 (IL 3), permit issuance is not a common procedure. Permits are exceptional, and you must use exceptional care before an applicant receives one.

1.3 Annual Report to Parliament

A37(7) requires the Minister report to Parliament the number of permits issued annually. In this report the total number of permits issued is broken down by inadmissible class (Section A19) and paragraph of subsection A27(2).

This requirement to report exists because permits are exceptional. The Minister is accountable to Parliament for the use of this exceptional authority.

It is essential you appreciate the importance of accountability when recommending or issuing a permit. As well as your responsibility to recommend or issue permits only in accordance with the guidelines of this chapter, you are required to leave a record of your decision. Clear records of decisions allow monitoring and research necessary for preparation of the report to Parliament.

2 CONSIDERING A PERMIT

2.1 Who is authorized to issue a Minister's permit?

A121(1) allows the Minister to delegate the authority to issue permits. Persons who have this delegated authority are listed in Instrument I-2 of IL 3. They are "Minister's delegates."

Even if you are a Minister's delegate, in certain situations you must seek concurrence from RHQ or NHQ before issuing a permit. APPENDIX A details situations requiring concurrence.

A121(1) also specifies "powers, duties and functions" which the Minister cannot delegate. These include parts of A19 dealing with national security [A19(1)(f), (k) and (l)]. Only the Minister can grant relief from these provisions. Paragraph 19(1)(e) should be viewed in much the same degree of seriousness.

You must not issue a permit to anyone who falls into these classes. Contact the Chief, Security Review, (BCZ), Case Management Branch, NHQ for guidance in these cases.

You must not issue a permit to anyone who falls into these classes without concurrence or direction from the Chief, Security Review, (BCZ), Case Management Branch, NHQ.

2.2 When may a permit be issued?

Minister's delegates may issue permits when people who are a minimal risk to Canadian society have a compelling need to come into or remain in Canada.

In your assessment of risk and need you balance the control and facilitation aims of the *Immigration Act* (see A3).

If our social and humanitarian commitments, economic and cultural interests, or international obligations to protect refugees and displaced persons [A3(a) to (h)] can be advanced without unacceptable risk to the health, safety and good order of our society [A3(i)] or the risk that our territory will be used for criminal activity [A3(j)], you may decide a Minister's permit is appropriate.

2.3 Who is eligible? [A37(1)]

Apart from people described in A37(2), any applicant or client affected by A19 or A27 is eligible for a permit.

2.4 Who is not eligible? [A37(2)]

A37(2) prohibits two types of applicants from receiving permits. They are persons in Canada, in spite of a removal order, who have not successfully appealed the order and persons in Canada who have appealed unsuccessfully under A77.

2.5 When does the process start?

Clients do not submit applications for Minister's permits. They apply for visas, or authorizations. While dealing with these applicants, you may discover they are inadmissible. This is when you first consider whether a Minister's permit is appropriate.

Summarize in your own mind the risk and need factors. If the latter potentially outweigh the former, give a Minister's permit serious consideration.

2.6 Interviews

You do not have to interview all applicants for Minister's permits. If you are sure A19 describes them, that they are credible, and do not represent a risk to Canadian society, an interview may not serve any useful purpose. If you are uncertain about either of the last two factors, you should hold an interview.

2.7 Cost recovery

There is a fee to cover the cost of issuing a Minister's permit. You do not have to collect it before you begin considering permit issuance. You can wait until you decide to recommend a permit.

The fee is non-refundable. Normally you know beforehand if applicants meet the basic criteria for a permit. They have applied for another document already. You found them inadmissible, but suggested a permit application. Other applicants may apply directly for a permit (e.g. inadmissible visitors from Schedule 2 countries). You should counsel these applicants about the basic requirements, before receiving their application with a fee.

If you issue more than one permit in a case (see Section 5.4), you must collect a separate fee for each permit.

You must also collect a fee when you issue a permit at the request of the Minister.

Immigration Cost Recovery Processing, IR 5, ANNEX 10 lists exemptions from the fee.

Descriptions of payment and exemption codes are in the IH manual.

2.8 Assessing need

Clients must show their need to enter or remain in Canada outweighs any potential risks to Canadian society. They must demonstrate greater need than an admissible person.

The degree of need is relative to the type of case. Consider factors which make the client's presence in Canada necessary. Is it because of family ties, job qualifications or economic contribution? Is his or her temporary presence essential to an event or an activity?

Consider the intent of the prohibiting section of the *Immigration Act*. Decide if the need is compelling enough to override its intent. The need may be compelling enough in the case of a spouse of a Canadian citizen. The need may be less compelling for a distant relative.

Even if the inadmissibility or violation is relatively minor, a permit may be unwarranted in the absence of compelling need. For example, the visitor visa program would lack integrity if visitors without visas obtained Minister's permits at ports of entry.

The assessment of need involves, but is not limited to the following issues:

- The essential purpose of the trip.
- The type/class of application and family composition, both in the home country and in Canada.
- For clients seeking medical treatment, the availability of treatment in Canada or elsewhere, its relative costs or accessibility, and its effectiveness.
- The tangible or intangible benefits to the person concerned and to others.
- The bona fides of the sponsor, host, or employer (e.g. an ad hoc committee that exists solely to invite an inadmissible individual as a speaker may not be bona fide).

2.8.1 Early admission

If you are a Minister's delegate, you can issue a permit to allow immigrants to go to Canada before they satisfy some requirements for permanent residence. You must be certain this action is essential.

The requirements are normally routine processing steps and may or may not be stated in the *Immigration Act*. Examples include the completion of background checks or a medical examination A11(1). They do not include the waiting period to apply for criminal rehabilitation.

If you have any reason to believe an immigrant could not meet all requirements for permanent residence after completing all processing steps, early admission is not appropriate. If you already know immigrants are inadmissible for any reason, you cannot code them as early admission cases either (see Section 5).

2.8.2 National interest cases

The need in these cases should be an economic benefit to Canada. It may materialize through the employment of citizens or permanent residents. Establish the bona fides of the individual, as well as the employer or business proposal, and the urgency of the case before recommending a permit.

2.9 Assessing risk

Risks vary depending on the nature of the client's inadmissibility. This section deals with medical, criminal, and other inadmissibility separately.

When clients have applied for immigrant visas, you must consider as well if they are likely to require public assistance in Canada. This consideration applies to all types of inadmissibility of intending immigrants. If they become permit holders they can become eligible to apply to the Governor in Council for landing see A38(1) and IP 12 Neither recommendations to, or approval of applications for landing are automatic. Factors such as dependence on public assistance can be an obstacle to landing. Intending immigrants likely to rely on public assistance continuously are high risk candidates for permits.

2.9.1 Medical risk

A19(1)(a) describes persons who are medically inadmissible to Canada. It protects our health and safety, as well as our health care and social services. You cannot discount this protection lightly.

Answer the following questions:

- Does the person suffer from a communicable or contagious disease? In A19(1)(a)(i) cases you must evaluate the immediate threat to the travelling public and the community of destination. You must know that precautions are in place to ensure that persons diagnosed or suspected of being infected with a communicable disease will NOT pose a threat to ANYONE encountered en route or in Canada. If you are not certain on this point, you should NOT recommend a permit.
- Can you forewarn officials and the travelling public about contact with a person who presents a medical risk?
- How severe is the person's anticipated need for health or social services in relation to the demand for these services by/to Canadian residents?
- What is the cost of the treatment or care?
- If an immigrant, will provincial public health insurers provide insurance coverage? (Note: Rules governing eligibility in provincial public health insurance plans vary widely. They are also subject to change. You may ask applicants to obtain information about eligibility directly from provincial plan administrators. You may also ask the regional Director General or Director (see Section 3.1) to answer this question.)
- If a visitor, how will the costs be covered? (Insurance? Family finances?)
- Are the arrangements for treatment/care and cost coverage in place?
- If a temporary entrant for treatment, will follow-up treatment be required in Canada or the country of origin? Is follow-up treatment available in the country of origin? If it is unavailable there, will this prevent the person from returning home?
- Is the person likely to become productive or self-supporting?

You must address all of these issues and contingencies satisfactorily as part of your risk assessment.

You should be guided in these cases (M4 to M7) by the medical profile and "expanded narrative" contained in the IMM 5365 or Medical Status report from FOSS (Field Operations Support System) or CAIPS.

2.9.2 Criminal risk

The *Immigration Act* contains more provisions to protect us from criminally inadmissible persons, than from any others. When assessing criminal risk, you must always be mindful of the importance Parliament attaches to good order in Canadian society.

The onus is on clients to prove they have overcome past difficulties which brought them into conflict with the laws of society. Their proof must convince you any risk from their presence in Canada is acceptable. Acceptable risk means the likelihood of new criminal activity is improbable.

Consider the following risk-related concerns:

- The seriousness of the offence.
- The chances of successful settlement without committing further offences.
- Behavioral factors involved (drugs, alcohol).
- Pattern of criminal behaviour and evidence that the person has reformed or rehabilitated.
- Pattern of criminal behaviour - was the offence a single event in an otherwise unblemished record (out of character)?
- Completion of all sentences, fines paid or restitution made.
- Outstanding criminal charges.
- Restriction of travel following probation or parole.
- Eligibility for rehabilitation or a pardon.
- Time elapsed since the offence occurred - is it a shoplifting offence that occurred last week or one that occurred 20 years ago.
- Controversy or risk caused by presence of the person in Canada.
- If an immigrant, will provincial public health insurers provide insurance coverage? (Note: Rules governing eligibility in provincial public health insurance plans vary widely. They are also subject to change. Applicants should obtain information about eligibility directly from provincial plan administrators. If ineligible, they should also provide proof they will not become indigent if they require health care or hospitalization in Canada, e.g., sufficient assets or private insurance to cover possible costs.)

You must address all of these issues satisfactorily as part of your risk assessment. This may involve obtaining information and confirmation from third parties.

2.9.3 Other inadmissibility - risk

When a person is inadmissible on other than medical or criminal grounds, consider the following risk-related questions.

- Is there a pattern of previous or multiple violations of the *Act* or *Regulations*?
- Is the violation inadvertent and accidental, or is it the result of careless or flagrant disregard for the law?
- Is the person credible?

- In the case of previously deported persons, have the original grounds for deportation been overcome? (Are there any statutory bars remaining against the person, other than the deportation order?)
- Are there public controversy elements to the case which would warrant referral to NHQ?

You must address all of these issues satisfactorily as part of your risk assessment. When you obtain information or confirmation from third parties, keep it on file.

3 RECOMMENDING A PERMIT

In addition to the case summary information outlined below at medical, and criminal, or other, include the following information in your written recommendation.

- Information about the inadmissibility/violation.
- A20 report (Port of Entry) or A27 report (inland) citing the specific inadmissibility/ violation.

Your recommendation should state concisely:

- Your grounds for making it, including any public policy, national interest, or compassionate and humanitarian considerations and in immigrant cases, brief comments on the applicant's chances of successful settlement in Canada, (education, work skills, employment history, family support, ability to pay for health care if ineligible for provincial public health insurance).
- The validity period of the permit.
- Whether it should be valid for leaving and re-entering Canada.

When you make your recommendation to a local authority and not to RHQ or NHQ, use the "For Official Use Only" portion of the application. If you must have concurrence from an RHQ or NHQ, summarize the recommendation in a memorandum, telex or facsimile.

3.1 Medical inadmissibility

If you decide to recommend a permit, forward a summary of the case with your recommendation to the Director General/Director, Immigration in the region the person is going to. Cite reference Section 3.1 and include the following information in the case summary:

- The client's basic information.
- A copy of the A20 or A27 report (if applicable).
- Risk assessment, addressing all issues as outlined in Section 2.9.1.
- Needs analysis.
- Any other relevant factors prompting your recommendation.
- An indication that settlement arrangements are met.
- Supporting documentation (IMM 0008, IMM 5365, IMM 1017, applicable telexes).
- Travel plans.
- In the case of persons seeking treatment in Canada: evidence that a health care practitioner and health care facility is prepared to treat them; evidence of satisfactory arrangements to pay for the treatment that do not include payments from a public health insurance plan of a Canadian province or territory, and; evidence from the health care facility that the treatment will not displace or delay treatment for anyone on a waiting list for medical services.

The Director/Director General will seek concurrence or input from the responsible provincial health authorities, where they have indicated a desire for such involvement. The Director General/Director will ensure all public safety, quarantine, health care access, eligibility for provincial public health insurance, financial and provincial jurisdictional factors are satisfactorily addressed before concurring with permit issuance.

When provincial health authorities need more information than appears on the expanded narrative, RHQ will ask Immigration Health Services (RNH) or Overseas Medical Services (RIH) to send a complete diagnosis directly to the province.

> ***Note:*** *Due to varying provincial requirements, it is left to each RHQ to devise the liaison procedures with their provincial counterparts.*

If provincial authorities object to permit issuance, the Director/Director General takes their objection into account before deciding whether to concur with your recommendation. When the case involves an immigrant, the Director/Director General will probably not concur over the objection of provincial authorities.

The Director will copy the response to your recommendation to other CICs or visa offices involved, and to RNH or RIH.

3.2 Criminal inadmissibility [A19(1)(c), (c.1), (c.2) or (d)] - Immigrants

You require concurrence from NHQ to issue a permit to an immigrant described in A19(1)(c), (c.1), (c.2) or (d). Send a case summary and recommendation to Case Management (BCD). Cite OP 19, Section 3.2 and include the following information in the case summary.

- The client's name, DOB, POB, immigrant category, marital status, family composition abroad and in Canada;
- A copy of the A20/A27 report (if applicable);
- Inadmissible class, name of offence, date of conviction [A19(1)(c), A19(1)(c.1)(i), A19(2)(a), A19(2)(a.1)(i), A19(2)(b)(i) or (ii)], details of sentence, equivalent Canadian offence (name, statute and section), maximum penalty in Canada, and date eligible for rehabilitation;
- Full background information leading up to the commission of the offence and an overview of the subject's lifestyle at the time, including;
- Date of occurrence of offence;
- Place of occurrence of offence;
- Factors leading up to the event (motives);
- Details of the offence;
- Part played by the applicant in the commission of the offence;
- Degree of violence including use of weapons;
- Involvement of drugs or alcohol (including any long term problems involving drugs or alcohol);
- Was this part of a pattern of criminal activity?
- Was the applicant involved in a "criminal lifestyle"? Did he/she earn a living from crime? Were friends also involved in crime? Does the client have several convictions for petty offences? Did the client frequently change address and employment or have weak family ties?
- Evidence of rehabilitation, including;
- Acceptance of responsibility for the offence;
- Evidence of remorse for any harm done;
- Understanding of gravity of the offence, of the damage done to self and others;
- Evidence of restitution, where possible, to victims of their crimes;

- Evidence of attendance and/or successful completion of a program of counselling or therapy for drug or alcohol abuse, sexual abuse, psychological disturbance or a history of assaults as appropriate;
- Evidence of stability in employment and family life, participation in educational and skill training programs and community life;
- Assessment of the risk factors from Section 2.9.2;
- Whether the client has applied for a pardon (if applicable);
- Security decision (required in all criminality cases regardless of age).

3.2.1 Supporting documentation

Attach the following documents to your case summary and recommendation.

MANDATORY

- (IMM 0008 or IMM 5001 "Application for permanent residence", if applicable;
- Security check (required in all criminality cases regardless of age);
- Conviction certificate;
- Subject's personal written statement fully outlining and detailing circumstances of the offence;
- Translated copy of foreign statute;
- A criminal clearance certificate obtained from the police authorities in the areas where he/she has resided for the past ten years (for in-Canada -RCMP criminal clearance certificate; U.S. - FBI and state criminal clearance certificates).

OPTIONAL

- Rehabilitation letters (character reference);
- Court records and transcript;
- Probation or parole officer's reports;
- Pardons which do not vacate convictions retroactively;
- File notes;
- Any other documentation you think appropriate to facilitate the decision.

3.3 Criminal inadmissibility [A19(2)(a), (a.1) or (b)]- Immigrants

A Minister's delegate does not require concurrence from NHQ to issue a permit to immigrants described in one of A19(2)(a), (a.1), or (b) only and in no other criminally inadmissible class if they have either:

- no more than two convictions that may be prosecuted by indictment;

or

- have committed no more than one act or omission.

  e.g. For an applicant who has one conviction that may be prosecuted by indictment and has committed one act or omission, you must still seek concurrence from NHQ.

Immigrants must also meet the following conditions.

- Did not use violence, a weapon (as defined in Section 2 of the *Criminal Code*) or cause serious property damage or serious physical injury to anyone while committing the offence(s), act or omission.

Dealing with a Minister's delegate you may not need as much detail in your case summary and recommendation as when you send one to NHQ.

If the immigrant falls into A19(2)(a),(a.1) or (b) but does not meet the all of the above requirements, the Minister's delegate needs concurrence from NHQ. Prepare the case summary and recommendation along the guidelines in Section 3.2 and Section 3.2.1.

3.4 Criminal inadmissibility - Visitors

Minister's delegates do not require concurrence from NHQ to issue permits to visitors. In certain cases though, they must report permit issuance to NHQ.

Delegates must inform NHQ when they issue a permit to a visitor to overcome A19(1)(c) or (c.1). This reporting requirement lets NHQ monitor use of delegated authority for this reason. No later than 48 hours after issuance, fax copies of the case notes and the permit to the Director, Case Review (BCM), Case Management Branch. The fax number for BCM is (613) 957-7235.

Minister's delegates may not need all the information cited in Section 3.2 to make a decision in the case of a criminally inadmissible visitor. Nevertheless, you must still write a case summary and recommendation.

A written record of the reasons for the decision is important for monitoring purposes. At the very least, it must contain information about the offence, the equivalent offence in Canada, and the sentence. When sentences include periods of imprisonment, the amount of time served is necessary as well. If a permit is issued, the decision record must also clearly show why.

At CAIPS missions, record the case summary and recommendation in CAIPS notes. CAIPS does not print permits, but it is the best place to record this information.

Except in extreme circumstances, "officers in charge of visa offices outside Canada" will not use their delegated authority to issue a permit to someone described in A19(1)(c.2). If you encounter such circumstances, you must contact Organized Crime (BCO), Case Management Branch (BCD), and the International Region (RID) geographic desk for advice and guidance.

You may also contact BCM before making decisions in other cases of criminal inadmissibility. BCM can help you resolve questions especially when you are dealing with serious criminal records or potentially high profile applicants.

3.5 Other inadmissibility

There is no standard format for your case summary when dealing with other inadmissibility. You may have to seek concurrence from BCZ as outlined in Section 2.1 [A19(1)(e), A19(1)(f), A19(1)(j), A19(1)(k) or A19(1)(l)]. Cite OP 19, Section 3.4 and include the following information.

- A copy of the A20 or A27(2) report, if applicable.
- Needs analysis (Section 2.8).
- Risk assessment (Section 2.9.3).

4 NEGATIVE DECISIONS

Overseas, if you cannot issue a Minister's permit, you send a refusal letter appropriate to an application for permanent residence or temporary entry. Like any refusal letter it must clearly state why the addressee is inadmissible.

If you considered recommending or issuing a permit to overcome the inadmissibility, also explain why a permit is not being issued. Be especially careful to respect procedural fairness (see OP 1) in drafting this part of the letter.

If the applicant is only requesting a Minister's permit, APPENDIX B contains a sample refusal letter.

5 POSITIVE DECISIONS - COMPLETING THE IMM 1263

5.1 Inadmissible class

All permits must clearly indicate the holder's inadmissible class. Inadmissible classes for applicants abroad or at ports of entry are the paragraphs of section 19 of the *Immigration Act*. This information is required as part of the Minister's annual report to Parliament.

Of the inadmissible classes, only A19(1)(h) never appears on permits from visa offices. No one is a member of this class until an adjudicator issues an opinion to that effect. If you must issue a permit to someone who is not a genuine immigrant or visitor, the inadmissible class is A19(2)(d), with A2(1). The latter subsection of the *Immigration Act* includes the definitions of immigrant and visitor.

A19(2)(d) should never appear alone on a permit. You should also show the part of the Act or regulations the holder cannot comply with or fulfil. For example, A11(1) requires every immigrant and certain visitors to have medical examinations. Sometimes these applicants are allowed to enter Canada before this examination (see Section 2.8.1). In such cases a permit should indicate A19(2)(d) with A11(1).

Often all members of a family receive permits (see Section 5.3). They may be in the same or different inadmissible classes. Use the inadmissible class that best describes the person receiving the permit. Someone who needs a permit simply because a family member is inadmissible, usually falls into A19(2)(d) with A9(1).

5.2 Type of case

The type of case code should be the same for all members of a family. This is true even for the codes corresponding to criminal and medical inadmissibility. Although not all family members may have failed criminal or medical screening, if one has, the type of case code for that member should appear on everyone's permit.

Be sure to enter the correct "Type of Case" code on the IMM 1263. This information is valuable not only to your colleagues, but also to staff of provincial ministries responsible for health insurance and public assistance.

The "type of case" codes are:

For "early admission" or "under application cases"

89 - Member of Family Class

88 - Convention Refugee, member of Designated Class

87 - National Interest (entrepreneur, self-employed, urgent labour market need)

86 - Other, N.E.S.

Note: *In early admission cases applicants have not completed certain routine processing steps (see* Section 2.8.1*). They are not known or thought likely to be inadmissible for any reason, other than not having completed routine processing steps necessary to obtain an immigrant visa. "Under application cases" mean immigrant cases that have been approved for processing within Canada.*

"Failed" applicant for permanent residence

95 - Criminal/Security/Other Inadmissibility - Member of Family Class

94 - Criminal/Security/Other Inadmissibility - National Interest (entrepreneur, self-employed, urgent labour market need)

93 - Criminal/Security/Other Inadmissibility - Other, NES

92 - Medical Inadmissibility - Member of Family Class

91 - Medical Inadmissibility - National Interest (entrepreneur, self-employed, urgent labour market need)

90 - Medical Inadmissibility - Other, NES

Visitor cases

85 - Medical treatment

84 - Student

81 - Worker

80 - Inadmissible person, N.E.S.

96 - Verification of departure required

Refer to FOSS, ID or IH manuals for further instructions on forms coding and completion procedures.

To ensure the client understands the nature of the permit, issue a covering letter explaining it. (See APPENDIX C.) The content of the covering letter will vary by type of case.

After issuing early admission permits, transfer the files to Case Processing Centre in Vegreville (CPC-V) to complete the process. Explain to early admission applicants that the Case Processing Centre (CPC-V) will contact them upon receipt of the visa office file.

With a permit coded from 90 to 95 you must explain that failed applicants must pay new processing fees when they re-apply for permanent residence. The new fee is payable whether they re-apply in Canada or abroad. They may apply once they are no longer inadmissible (e.g. after successful treatment for a condition causing medical inadmissibility or applying successfully for criminal rehabilitation or a pardon). If they remain inadmissible, they may apply for landing by order-in-council (see Section 7.2 and A38(1). The covering letter should explain there is a fee for this type of application as well.

The Immigration Regulations [R41.(2)] require immigration officers to inform sponsors in writing of their right of appeal. This requirement applies even if the refused sponsored applicant receives a Minister's permit. Consequently, you must follow the procedures in manual chapter OP 2 in all cases of refused sponsored applicants, including those who receive Minister's permits.

> ***Note:*** *After the IAD allows an appeal no new processing fee is required when the visa office resumes processing the application.*

In all cases, attach a picture of the permit holder to the IMM 1263 using a wet or dry seal. Issue separate documents for each person requiring a Minister's permit. Do not include all family members on one permit.

5.3 How many permits?

When either the principal immigrant applicant or any dependant is inadmissible, you must give each member of the family a permit. They all remain on permits for five years before being considered for permanent residence [A38(1)].

This rule does not apply to siblings sponsored in the family class and applying together, or visitor applicants. Only the inadmissible applicant requires a permit. You may give the admissible members of the family visas or authorizations.

You must tell immigrant applicants who receive permits they need employment and student authorizations to work or study in Canada.

You must also tell them to obtain private health insurance, if they are ineligible for provincial public health insurance.

5.4 Length of validity

You may make a permit valid for up to three years [A37(3)]. The duration you chose should fit the needs of the applicant and circumstances of the case.

Make it valid for as long as practicable to limit the cost and work involved in issuing extensions.

Case Review (BCM) will supply the validity date for cases of criminal inadmissibility (immigrants) requiring NHQ concurrence.

See Section 7.4.1 for specific instructions that apply when the permit is for return after the Federal Court of Canada sets aside a negative Convention Refugee Determination Decision involving a person against whom a conditional removal order had been made.

5.5 Leaving and re-entering Canada

Unless you specify a permit is valid for leaving and re-entering Canada, A37(4.1) cancels it when the holder leaves.

You should not give visitor applicants permits valid for leaving and re-entering, unless they are a stable risk and need to travel often.

Give immigrants permits valid to leave and re-enter, unless there are reasons to discourage them from leaving.

5.6 Issuing extensions to Minister's permits

The holder of an expired or cancelled permit may be directed to leave Canada, or even ordered deported. [A37(5)] Tell permit holders they must leave Canada or extend their permits well before they expire.

Only permit holders in Canada can apply for extensions. They use the kit "Applying in Canada for: Extension of Visitor Status, Student Authorization, Employment Authorization and Extension of Minister's permit." CICs and CPCs receive applications for permit extensions.

You cannot extend a permit abroad. If holders of permits valid to leave and re-enter Canada want to return after the expiry date, they apply for a new one.

Before issuing a new permit, contact the office(s) where the expired permit or permit extension(s) was issued. Ask for any adverse information from the other office's file. If RHQ or NHQ must concur, ask the other office if the original concurrence covered future permits when risk and need factors are stable. If these factors are different, do a new assessment, recommendation and request for concurrence.

5.7 Verification of departure

When you issue a Minister's permit with the concurrence of, or on instructions from BCD, and verification of departure is necessary, use the type of case code 96. Issue the letter in APPENDIX D as well. It instructs the permit holder to report to an immigration officer when arriving and leaving Canada.

An immigration officer will record the permit holders departure with an NCB entry in FOSS. BCD will search FOSS periodically for these NCB entries. If there is no NCB entry, BCD may ask you to convoke the permit holder to an interview to confirm departure.

6 A 19(3) ENTRY

Where a case involves a minor offence or violation and no controversy is anticipated, officers at ports of entry may grant admission under A19(3) for a period not exceeding 30 days.

If applicants are seeking admission for more than 30 days, they are inadmissible and require a Minister's permit.

7 OTHER PROCEDURES

7.1 Convention refugees in Canada

Canada has obligations to Convention refugees under the United Nations Convention Relating to the Status of Refugees.

A4(2.1) translates one of these obligations into a principle of the Act. It gives Convention refugees, lawfully in Canada, the right to remain there. They cannot be expelled unless they are described in A19(1)(c.1), (c.2), (d), (e), (f), (g), (j), (k) or (l). A4(2.1) also makes them eligible for expulsion if sentenced to more than six months imprisonment or, convicted of an offence for which a sentence of five years or more may be imposed.

Minister's permits are not routinely issued to Convention refugees.

If Convention refugees seeking permanent residence are described in A4(2.1) they cannot be landed [A46.04(3)]. There may be reasons, nonetheless, to allow them to remain in Canada under the authority of a Minister's permit.

In such cases the senior immigration officer will submit full particulars of the case, together with a recommendation, to the Director, Case Review (BCM), Case Management Branch, NHQ. If applicable, posts overseas must be advised to cease processing of overseas dependants.

7.2 Expiry of permits and A38(1) landing

A38(1) allows permit holders who have resided continuously in Canada for at least five years to obtain landing. A short break in the validity of a permit is not necessarily a break in time. You must be reasonable in interpreting whether a break in validity is a break in time. For example, there is no break in time when circumstances beyond the holders' control prevented them from seeking an extension on time.

7.3 Cancellation of a Minister's permit

When immigration officers intend to cancel permits they must inform holders by letter. They state the reasons for this decision. They also invite the addressee to write or discuss the decision in person within a specified period of time. The letter should be either hand delivered to the person or sent with acknowledgement of receipt (e.g., "double-registered" letter). Legal counsel for permit holders also receive copies of the letter.

An interview to discuss cancellation of the permit is not a formal hearing. It is simply an opportunity to present any additional information relevant to the case.

If immigration officers maintain the decision to cancel the permit, they inform holders in writing that the permit has been cancelled. The letter will include the effective date of cancellation and will in most cases require the person to leave Canada by a specified date. It will also explain possible consequences of non-compliance. This will be an inquiry in all instances where removal via the inquiry process is possible. In other cases, a formal direction to leave pursuant to A37(5) follows cancellation of a permit. (See Section 7.4.3)

If you encounter an expired or cancelled permit and the holder refuses to voluntarily surrender it, you may mark it with a "Cancelled" stamp and the office date stamp.

7.3.1 Cancellation deemed per A37(4.1)

A37(4.1) automatically cancels a permit if the holder leaves Canada, unless it states the holder may leave and re-enter Canada. Applicants at visa offices or ports of entry with permits cancelled by A37(4.1) must prove their admissibility at the time they seek admission. Before you make a decision, you should exchange information with other offices that have dealt with these applicants.

If you receive a permit that is not valid to re-enter Canada, you may mark it with a "Cancelled" stamp and the office date stamp.

7.4 Removals

7.4.1 A52.1 Procedures

A52.1 provides that "Where a removal order, other than a removal order that may be appealed to the Appeal Division, has been made against a person and the person is removed from or otherwise leaves Canada, the person may, at the expense of the Minister, return to Canada, if the person is subsequently successful in having the removal order set aside."

a) How does A52.1 usually arise?

The Federal Court of Canada (FCC) sets aside a negative Convention Refugee Determination Decision involving a person against whom a conditional removal order had been made. The FCC requires the Convention Refugee Determination Division of the Immigration and Refugee Board to re-examine the refugee claim. Meanwhile the original conditional removal order remains valid.

b) Who is responsible for notification?

After a FCC decision, Litigation Management Branch (BCL) of the Case Management Branch of CIC NHQ is responsible for notifying the person by registered letter, with copies to counsel, the Case Review (BCM) and the appropriate visa office. When the whereabouts of the person are unknown, BCL will notify counsel by registered letter, with copies to BCM and the visa office.

c) Action at the visa office?

After the person contacts you, inform BCM with a copy to BCL and to Accounting Operations (BFO), Finance and Administration Branch (BFD) that the person wishes to return and provide the approximate cost in Canadian dollars.

d) Who can return?

Dependants are not eligible to return unless they were included in the removal order made against the person.

e) What kind of transportation can be provided?

The person should return in the most direct and economical manner. This means a one way economy class air ticket, unless train or bus is more practical, booked and paid for by the mission.

f) Who determines the time frame for return?

BCL will ascertain the date of the new hearing, and notify BCM, which will in turn request you issue a Minister's permit to allow the person to return.

g) Length of validity

The person must be given only enough time to travel to Canada. Allowing a day or two beyond the scheduled arrival date is sufficient. In the event of a delay out of the person's control, the permit should still be valid up to the later arrival date. A validity date beyond the anticipated arrival date is not necessary. It would do more than restore the person's situation to what it was before departure from Canada.

h) What are the financial steps?

The person does not pay a cost recovery processing fee. A52.1 clearly specifies that return is at the expense of the Minister. Exemption code 999 applies.

The Visa Office will advise BCM, with copies to BCL and BFO, of the approximate cost of transportation in Canadian dollars as provided in Section 7.4.1 c).

BCM will request BFO to authorize the expenditure.

BFO will advise the Department of Foreign Affairs and International Trade (DFAIT/SBFM) of the coding authorizing the mission to purchase transportation for the person.

DFAIT/SBFM will provide the mission administration office with the encumbrance number and financial coding for the purchase of transportation. After DFAIT is invoiced, a bill will be sent to BFO.

i) Issuance of Minister's permit

The visa office will record the NHQ file reference on the permit, in the area under the signatures.

The visa office will provide BCM and BCL, with the details (number, date of issue, date of entry into effect, date of expiry) of the permit and the itinerary.

7.4.2 Removal via inquiry process

- New grounds.

  If holders become persons described in any paragraph of A27(2) other than the one(s) for which their permit was issued, A37(4) cancels the permit. An immigration officer will notify them as in Section 7.3 above and report them on new grounds.

- Original grounds.

  Immigration officers can use the grounds on which the permit was issued to remove the holder of a cancelled permit through an inquiry.

  Where the original grounds were A19(1)(h) or (i), or A19(2)(c) and there are no new grounds, immigration officers cannot remove through an inquiry. They must rely on A37(5) or (6) for removal.

- A27(2)(e)

  When immigration officers use A27(2)(e) as grounds for removal it is because they originally issued a permit to temporarily preclude or suspend removal action for public policy, humanitarian or compassionate reasons. The person was and continues to be in contravention of the Act for having remained in Canada after ceasing to be a visitor.

  [Reference: Arturo Heras v. M.E.I., Federal Court Trial Division. In this case, the judge reasoned that, notwithstanding the permit, the appellant ceased to be a visitor when he overstayed and hence when the permit expired he was reportable under A27(2)(e).]

7.4.3 Removal via Ministerial deportation order

In the vast majority of cases immigration officers should pursue and accomplish removal through inquiry procedures. They will seek Ministerial deportation orders only when there are no other grounds, an individual poses a threat to public safety or national security, and/or an inquiry does not serve national interest.

The Minister has delegated authority under A37(5) and (6) to four people (see APPENDIX A).

In all cases, address recommendations for Ministerial deportation to the Director, Case Review (BCM), Case Management Branch (BCD), NHQ.

7.5 Lost/stolen permits - Replacements

At CICs information about lost or stolen Minister's permits is entered into FOSS through the SE (Status Entry) module. Use an NCB (Non-Computer Based form) "Watch For" (Code-01) with an expiry date at least equivalent to the validity of the lost/stolen document.

Contact the office which issued the original document before using FOSS to issue replacement permits. (See also ID manual, "General Guidelines and Procedures", page 8 for further information.)

When you have information abroad about a lost or stolen permit, consult procedures in IC 3, section 9, *Cancelled Visas or Commission Documents or Lost or Stolen Visas or Documents Issued Abroad.*

7.6 Adjustment assistance

Settlement officers who encounter permit holders who need financial help, may consult with an immigration officer to determine the circumstances of the holders' admission and status. With this information the settlement officer will decide if financial assistance under the Resettlement Assistance Program (RAP) is appropriate. It will also alert the CIC to the holders' circumstances, in the event further investigation or action is warranted.

APPENDIX A
ISSUING AND EXTENDING MINISTER'S PERMIT

Level of Concurrence Required

NHQ

- Criminality [A19(1)(c)(c.1),(c.2)] where the person is a prospective immigrant (including those persons who have visitor status and whose application is being processed in Canada or outside of Canada).

  All recommendations in criminal cases should be addressed to the Director, Case Review (BCM), Case Management Branch, NHQ.

- War crimes and crimes against humanity [A19(1)(j)]
- Any recommendation about someone falling into this class of inadmissibility must be scrutinized by Case Management Branch (BCD). Address your recommendation to Security Review (BCZ) in BCD and copy the geographic desk in the International Region (RID).
- Security and Public Safety [A19(1)(d), (e), (f), (g), (k), (l)]
- All recommendations in security or public safety cases should be addressed to the Security Review, (BCZ), Case Management Branch (BCD), NHQ. Concurrence may be sought from NHQ without reference to RHQ where the recommendation originates in Canada. When the recommendation originates outside of Canada, visa posts will seek concurrence from NHQ and copy the information to Regional authorities/CIC's in provinces where the inadmissible person is destined.

RHQ

- Medical Inadmissibility [A19(1)(a)]

LOCAL LEVEL (CIC or Visa office)

- Criminal Inadmissibility - Visitors
- Criminal Inadmissibility [A19(2)(a), (a.1) or (b)] - Immigrants. N.B. Consult guidelines in Section 3.3.
- All other cases

APPENDIX B
DRAFT LETTER TO CLIENT COVERING REFUSAL TO ISSUE MINISTER'S PERMIT

This refers to your application/interview of _____ (day/month/yr) concerning _____ (nature of application and/or reason for interview).

Your case has been examined with reference to the possibility of issuing a Minister's permit. After a careful and sympathetic review it has been determined there are insufficient grounds to merit the issuance of a permit in your case.

As you are a person who has been found to be inadmissible to Canada, you should not visit Canada for any reason without first contacting a Canadian visa officer. Should you wish to return to Canada in future, it is suggested that you attend to the following: _____. (identify action so that client can overcome inadmissibility or avoid violation of the *Act* or *Regulations* in future)

Note: *This is a sample letter with suggested wording. Preference as to the final wording, or the use of pre-printed as opposed to micro-produced "originals" is left to the discretion of local managers provided the content remains consistent with the intent.*

APPENDIX C
SAMPLE LETTER TO CLIENT COVERING ISSUANCE OF MINISTER'S PERMIT

Dear

This refers to your application for temporary entry to Canada.

You must present the enclosed Minister's permit to Canadian government officials when you arrive in Canada.

Please note that this Minister's permit is valid to enter and remain in Canada ONLY until _____ (date/month/year). Note as well that it does not allow you to enter Canada more than once before this date.

Please sign your name in "Signature of Holder" area on the document.

If you cannot leave Canada before the expiry date of your permit, you MUST ensure that your application for more time reaches a Canada Immigration Centre or the Case Processing Centre in Vegreville at least thirty (30) days before the expiry date. Call the Immigration number listed in the blue pages of your telephone book and ask for the immigration kit entitled "Applying in Canada for: Extension of Visitor Status, Student Authorization, Employment Authorization and Extension of Minister's Permit". This is kit.

[Omit the above paragraph when issuing a permit according to procedures in Section 7.4.1 (A52.1)]

Check the type of case code in the upper right-hand corner of your permit.

If it is either 86, 87, 88, or 89 the Case Processsing Centre in Vegreville will contact you upon receipt of your application for permanent residence from the visa office.

If your type of case code is 90, 91, 92, 93, 94, or 95 you are a permit holder. You must submit either a new application for permanent residence or an application for landing after you arrive in Canada. You may have to remain there continuously as a permit holder for as long as five years before you are eligible to apply. If you think you may be eligible sooner, you must submit evidence you are no longer inadmissible with your new application. You must pay all applicable fees for your new application in effect the day you submit it.

You will need employment and student authorisations to work or study in Canada. You must also obtain private health insurance, if you are ineligible for provincial public health insurance.

The Minister's permit has been issued under Section 37 of the *Immigration Act.* The following are subsections of Section 37 you should be aware of:

(1) The Minister may issue a written permit authorizing any person to come into or remain in Canada if that person is:

a) in the case of a person seeking to come into Canada, a member of an inadmissible class; or

b) in the case of a person in Canada, a person with respect to whom a report has been or may be made under subsection 27(2).

(4) The Minister may at any time, in writing, extend or cancel a permit.

(4.1) Unless a permit specifies that a person may leave and re-enter Canada, the permit is cancelled if the person to whom the permit was issued leaves Canada.

(5) The Minister may, on the cancellation or expiration of a permit, make a deportation order against the person to whom the permit was issued or direct that person to leave Canada within a specified period.

(6) Where a person who has been directed by the Minister to leave Canada within a specified period of time fails to do so, the Minister may make a deportation order against that person.

If you have any questions regarding the above terms, please contact this office.

Note: *This is a sample with suggested wording. Preference as to final wording, or the use of pre-printed as opposed to micro-produced "originals" is left to the discretion of local managers provided the content remains consistent with the intent.*

APPENDIX D
SAMPLE LETTER TO CLIENT WHERE VERIFICATION OF DEPARTURE IS DESIRED

Dear

This refers to your application for temporary entry to Canada for the purpose of ...(purpose of the visit)

Attached to this letter is a Minister's permit valid to enter and remain in Canada ONLY until _____ (day/month/year). Please note that the permit does **not** allow you to enter Canada more than once before this date. The permit is issued with the understanding that you will report to an immigration officer upon arrival to Canada and again upon leaving.

When you arrive in Canada, present this letter and the permit to an immigration officer who will record your arrival and return the documents to you. When you leave Canada, you must have your departure verified by personally giving this permit, as well as the attached letter, to a Canadian immigration officer. Immigration officers are on duty in all international airports in Canada and at land border crossings with the United States.

Please note that remaining in Canada for a period of time longer than that authorized on the permit is an infraction and it can result in your deportation from Canada. Also, if you fail to report as you are instructed, immigration officials may conclude that you violated the terms of your entry by not leaving Canada. In that case, if you apply to enter Canada again, the Minister may not approve your application.

If you have any questions regarding the above terms, please contact this office.

Visa Officer

For official use only:

Departure verified on _____ (date) _____

At:_____ (port of exit)

Via:_____(flight number/bus, etc)

Immigration officer:_____